

Maritime Accidents, Incidents and Investigations

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12.1 Introduction

a. General: The primary goal of the Executive Vice Presidency for Operations (OP) is to provide a safe and expeditious transit to vessels using the service of the Panama Canal. This is an effort that requires the participation of many people and different Panama Canal Authority (ACP) units that interact in a very efficient manner for the

completion of each transit operation. No matter how well planned and how skillful is the personnel participating in a transit, accidents and incidents occur along the waterway. They are the result of a combination of causes that, in some instances, produce an unfortunate result that could affect the employees, Canal property, customers, or the environment. The intent of this section is to provide guidance to all concerned on the practices followed by OP on investigation procedures for accident/incidents in the waterway.

b. Principles: Interest and active participation of all concerned are important factors for eliminating causes of accidents and incidents. Prompt reporting of accidents is of primary importance for a successful and effective response that would result in correction of the causes. Consequently, all employees, especially those directly concerned with the transit of vessels through the Panama Canal, are responsible for reporting to proper authorities and in a timely fashion, any accident or incident in which they are directly involved, exposed to, witness or observe.

c. Near Misses: Incidents and near misses, even though of minor consequences, should be reported. They could be warnings or indications of serious problems. Each near miss is a sign that something is wrong. Proper follow up is necessary to prevent accidents of significant proportions. If properly analyzed, a near miss may reveal as many constructive conclusions as a major accident.

12.2 Maritime Accident Notification Procedure

a. Pilots are responsible for notifying Maritime Traffic Control Unit (OPTC-T, MTC) on a timely basis, of any accident or incident that could have resulted in personal injury, damage to a ship or to ACP structures or equipment, regardless of the cause and who is at fault. MTC will notify the Canal Port Captain (CPC) on duty and the agent. Pilots will also notify the master of the vessel.

b. If necessary or requested by the master, a CPC and an agent representative will board the vessel. Preliminary damage will be assessed and a decision will be reached if an investigation by the Board of Inspectors (BI) is necessary.

c. In the event the master decides to go to sea, the CPC will advise the master of his rights to an investigation and invite him to sign a Release Form 4327 "Notice of Effect of Departure without Investigation."

d. The master will also be advised that his rights will be forfeited if the vessel departs Canal waters.

e. Tugboat masters and launch operators are responsible for promptly reporting accidents or incidents involving tugboats or launches, or other floating equipment.

f. In case of a serious accident, OPT, or his designee, is responsible for requesting support from Fleet and Equipment Maintenance Division (OPM) or Locks and Installation Maintenance Division (OPE) when deemed necessary. In the event of

possible damage to the vessel's cargo due to an accident, OPT is also responsible for contracting an independent surveyor in order to estimate the amount of damaged cargo. In such a case:

- OPT will instruct the Naval Architect (OPTS-PLN) and/or Contract Officer (OPTX-PRC) to contract an independent surveyor best suited to the need of the particular incident.
- OPTS-PLN (or designated person) will accompany the independent surveyor during his inspection, and if deemed necessary, will request support from Industrial and Fleet and Equipment Maintenance Division (OPM) in order to better establish any relationship or lack thereof between the structural damage and the cargo damage.
- OPTS-PLN will prepare a preliminary report, which will be sent through OPT, to the Legal Advice Office (AJ), stating the extent of the damage to the vessel and cargo.
- OPTS-PLN will be responsible for the review of the report prepared by the independent surveyor to ensure clarity of content and provide a copy of the final version to OPT for AJ.

12.3 Determining the Need to Perform an Investigation

a. Avenues Available: Two different avenues are available for the investigation of maritime accidents/incidents in the Canal. They may both be performed at the same time, but separately; however, there is no requirement that both investigations be conducted. They are identified as:

(1) The Formal Investigation conducted by the Board of Inspectors (BI), as ruled by the ACP Maritime Regulations for the Operation of the Panama Canal, is a fact-finding procedure that may be requested by the master or agent of a vessel, by OP, or by affected port installations and third parties.

(2) The Formal Administrative Investigation (FAI), as defined in subsection 12.7, is conducted internally by OP and is aimed mainly at learning from that accident/incident and taking corrective actions, if required. It may only be requested to OP by OP managers.

b. Considerations for decision to investigate: In determining the need and type of investigation to be conducted, OP managers and ACP officials shall consider the following factors:

(1) Seriousness of the accident/incident;

(2) Importance of the information that may be obtained from the investigation;

- (3) Complexity of the accident/incident;
- (4) ACP interest;
- (5) Customer interest;
- (6) Necessity for protecting the rights of parties in interest;
- (7) Necessity of maintaining a record; and,
- (8) Necessity of proceeding in a timely fashion.

In the process of evaluating the above factors, managers shall closely work with the BI Chairman and COC. If necessary, the BI Chairman will seek advice from the Vice Presidency for General Counsel.

12.4 Investigation Principles

a. Definition: An investigation is a planned search for facts through interviews, examination of records, and interpretation of physical evidence. A successful investigation is one in which all leads are fully developed, and the case is clearly reported in a timely fashion.

b. Purpose: The primary purpose of an investigation is to ascertain the cause(s) of an accident/incident, casualty, or personnel misbehavior to determine:

- (1) Liability of affected parties;
- (2) If corrective measures should be taken.

The information gathered should be used to measure the effectiveness of the operation, validate the safety and training programs, improve operating or maintenance procedures, and prevent recurrence of similar accidents/incidents.

Investigations should be performed with a positive attitude. They require not only careful examination of the sequence of events, but also examination to determine unsafe practices, faulty equipment, inadequate maintenance or training, poor communication or other operating conditions that may have contributed to the accident. A good investigation extends beyond determining what happened by asking what should have happened. The result is not just a description of the events, but an assortment of possible solutions. The main goal is to promote safety of life and property, protect the environment, and to improve performance and the quality of service provided to Canal customers.

12.5 Disciplinary Concerns

a. Board of Inspectors Formal Investigations (BI): BI investigations of maritime accidents/incidents will not be used to discipline employees.

b. Formal Administrative Investigations (FAI): When a Formal Administrative Investigation reveals possible negligence, gross errors of judgment, misconduct, violations of regulations or operating procedures that may result in loss of life or property, serious injury, substantial damage to any structure, plant or equipment, or damage to the environment, the resulting report may include recommendations for subsequent disciplinary inquiries.

12.6 Board of Inspectors Investigations

a. General: This paragraph contains general information relating to the investigation of maritime accidents occurring in Panama Canal waters conducted by the Board of Inspectors. It describes, in general terms, the functions of the Board and the rules and procedures it uses in conducting these investigations. Detailed information is defined in the ACP Maritime Regulations for the Operation of the Panama Canal.

b. Board of Inspectors Composition: The BI shall be composed of a minimum of three members, as follows:

(1) One permanent member, designated by the Administrator, who shall preside the Board.

(2) Two members designated by the Chairman of the Board of Inspectors during the investigation period and will cease their functions once the final report has been issued.

The number of members may be increased by the BI Chairman in cases where the circumstances or peculiarities of the accident warrant such action.

The BI Chairman will designate its replacement when he is impeded to act or if he will be absent for less than 30 days. If the Chairman will be absent for more than 30 calendar days, his replacement will be designated by the Administrator.

c. Board of Inspectors Functions: The BI is responsible for conducting investigations of maritime accidents that occur in the Canal operation compatibility area.

The following are functions of the Board of Inspectors:

(1) Inspect vessels and investigate facts, actions or omissions resulting from maritime accidents that involve damage to the vessels, their cargo, crew and passengers; to Authority personnel or property; or to affected third parties while navigating through the Canal.

(2) Submit a report of each investigation to the Administrator, setting forth in detail its opinion on the causes and responsibilities of the accident, as well as the nature and extent of any current or future damages resulting from same.

- (3) Forward a copy of the above-mentioned report to personnel in charge of handling the administrative offenses referred to in Chapter XI of the Regulation on Navigation in Panama Canal Waters.
- (4) Submit a confidential report to the Administrator of the estimated costs of the damage, as determined by the Fleet and Equipment Maintenance Division (OPM), as well as the current and future damages resulting from the maritime accident investigated, according to the appropriate assessments.
- (5) Issue licenses to employees of the Authority's occupying maritime positions that require such licenses, and also grant permission to third parties to operate maritime crafts in the Canal waters.
- (6) Issue Pilot Exemption Certificates to third parties that operate in areas of compulsory pilotage in Canal waters and comply with all established requirements for such exemption.
- (7) Inspect and issue the corresponding certification to vessels that are granted pilotage exemption and for the undertaking of commercial activities within Canal waters.
- (8) Any other pertinent maritime matter, as assigned by the Administrator.

d. Investigations:

- (1) Upon receipt of a written request from one of the parties in interest, the BI shall investigate the conditions and circumstances of *maritime accidents* that occur in Canal waters in which there is reason to believe that Canal personnel or equipment were on board or assisting the vessel involved, or Canal personnel or equipment were either on board another vessel, on the shore or in another location related to the accident.
- (2) The written request may be presented by any party in interest, namely the master or agent of the involved vessel, the involved or affected port installation, by OP, or by the affected third party.
- (3) In case of serious or very serious accidents in which no written request for the investigation has been received, OP will request the investigation.
- (4) Failure of a party in interest to present a written request to the BI for the investigation of a maritime accident will result in the forfeiture of all rights to an investigation, and subsequent requests for charges, demands or claims against the Authority or its personnel.
- (5) The BI may require the presence of a party in interest at a hearing, even though it has not requested the investigation.
- (6) In addition, the Board may investigate accidents or incidents in which the ACP is not a party in interest, or are not considered serious maritime accidents. These

investigations are classified as *Special Investigations* and are not included in the yearly statistics of maritime accident investigations.

e. Very Serious and Serious Maritime Accidents:

A very serious maritime accident to be understood as:

- (1) Any accident involving the death of a person.
- (2) Any accident resulting in the total loss of the vessel.
- (3) Any accident resulting in severe environmental contamination.

A serious maritime accident is to be understood as:

(1) Any accident resulting in one or several persons suffering an injury of the following characteristics:

(a) Loss of a member which disables the person from performing its regular duties.

(b) Organs or the life of a person are compromised requiring immediate emergency attention in a medical center.

(2) Any accident resulting in fire, explosion, collision, grounding, contact with underwater object, which cause extensive structural damage, hull perforation, or any other damage that disables the vessel from navigating without towing assistance.

(3) Any accident that causes environmental contamination which hampers or impedes the operation of the Canal or port installations in Canal waters.

(4) Any accident that affects 10% or more of the daily programming, for a period equal to or longer than 24 hours from the moment of the accident.

(5) Any accident causing damage to any structure, plant or equipment of the Authority resulting from the navigation or other activity of the vessel. In cases where the Authority does not request a BI investigation, the justification must be presented by the responsible manager to OP for his approval.

(6) The Authority may require a vessel and its crew to remain in Canal waters for up to six hours after completing its transit, in order to determine if a BI investigation is required.

f. Hearings:

(1) The investigation shall include a formal hearing with the purpose of determining the causes and responsibilities of the maritime accident and interview witnesses from all involved parties. If necessary, the BI Chairman may request additional testimony from the parties in interest, as well as other evidence, and incorporate them into the record.

(2) The hearing will be conducted in the English language by the BI Chairman, who, at his discretion, may be joined by one or more members of the Board for these purposes. The final opinion shall be adopted by consensus of the members.

(3) To conduct the hearing, the BI may:

(a) Call witnesses or other persons to testify on matters of their competence.

(b) Administer oaths to the witnesses.

(c) Require presentation of any books, records or documents deemed necessary.

(d) Obtain support from the competent authorities to enforce the aforementioned when any person refuses to appear or to provide the books, records or documents requested.

(4) Hearings are held in the Board Room of the Office of the Board of Inspectors (Bldg. 996, La Boca). A shorthand reporter is required; and interpreters for foreign languages may also be required.

(5) The hearing shall be scheduled so as to afford parties in interest sufficient rest time prior to its commencement, in accordance with the provisions set forth in the Regulation on the Board of Inspectors of the Panama Canal Authority, Article 18. The BI will attempt to initiate the hearing within 24 hours from the time the written request from the party in interest is received.

(6) Parties in interest are responsible for notifying their legal counsel as to the time and place of investigation.

(7) The master of the vessel is responsible for advising if an interpreter is required prior to the commencement of the hearing, in order to allow sufficient time to acquire such service.

g. Participants:

(1) Only the persons designated by the parties in interest may participate in the hearing as their representatives, except for the observers that may be allowed at the discretion of the BI Chairman. The Chairman will appoint personnel that shall participate in the hearing depending on the circumstances of the accident. The Chairman may also limit the number of representatives of parties in interests.

(2) *Parties in Interest.* A party in interest is the involved or affected party to whom the Board may assign responsibility for the accident under investigation. They may include, but are not limited to:

(a) Master of each vessel involved.

(b) Pilot in charge of the navigation and movement of each vessel involved at the time of the accident.

(c) Charterer of each vessel involved or his representative.

(d) Agent for each vessel involved.

(e) Superintendent of the locks or his representative when the accident occurs in or around the locks.

(f) Any other duly assigned representative of a department or division of the ACP whose property or equipment was involved in the accident.

(g) Any duly assigned representative of the Panama Maritime Authority (AMP) or other Government agency whose personnel, property, or equipment was involved in the accident. AMP representatives may participate as observers in any investigation.

(h) Persons determined by the Board to have a close personal or financial interest in the outcome of the investigation.

(i) The Authority is usually represented by an attorney from Office of Legal Counsel of the ACP.

(3) Parties in interest shall have the right to defend themselves and obtain counsel of their own choosing, introduce any relevant evidence, participate in the undertaking of tests and inspections admitted by the Board, and cross-examine witnesses. The BI Chairman will order pertinent tests and inspections at the request of the parties in interest.

(4) The parties in interest and their representatives are entitled to remain in the board room throughout the investigation. An individual who has been designated by the Board to be a party in interest may waive his right to be a party in interest and request to appear merely as a witness, in which case he will remain outside the board room until he is called to testify.

h. Witnesses and Observers: Parties in interest may be called as witnesses by the Board. Other persons who have direct knowledge of the accident may also be called to testify before the Board. Experts or specially qualified persons, although they may have no actual knowledge of the accident, may be called on as expert witnesses by the Board or by the parties in interest.

i. Rules of Investigations

(1) General:

(a) The Board will endeavor to begin the investigation at the scheduled time. Counsel for parties in interest wishing to consult with their clients prior to the investigation should arrange to do so well in advance of the scheduled starting time. The Board will not necessarily delay the convening of an investigation because counsel has not discussed the circumstances of an accident with his client.

(b) The master of a vessel involved in an accident being investigated by the Board is required to bring to the investigation, for the purpose of inspection and reproduction, the bridge and engine room bell books and logbooks (both smooth and rough logs), and, if the vessel is equipped with an automatic bell logging device or a course recorder, the tapes or printouts which those devices produced at all times relevant to the accident being investigated.

(c) In most investigations the Board will call as witnesses the master, chief engineer and one or more of the mates on watch for each vessel involved. The master is responsible for making available for possible questioning any other personnel from the vessel who may have knowledge of the circumstances surrounding the accident being investigated by the Board.

(d) Once the investigation is convened, no one will be permitted to enter or leave the board room without permission from the Board. Any party in interest or observer designated by the Board may not be replaced by an alternate without permission from the Board, although reasonable requests to leave or substitute alternates are generally granted.

(e) Witnesses, other than parties in interest, shall be excluded from the board room during the proceedings, except when they are called to render testimony. Witnesses are sworn in as they are called. Witnesses who are not parties in interest shall not be allowed to hear the testimony of other witnesses. After testifying, a witness may, if the Board so directs, remain available for possible recall to the witness stand.

(2) Procedures and Rules during Formal Investigations and Hearings:

(a) Some of the common law rules of evidence will be observed in the interest of an orderly presentation of facts.

(b) The Board will exercise reasonable control over the form of examination of witnesses in order to extract the facts surrounding the accident as rapidly and efficiently as possible.

(c) The Board, generally, will not permit the introduction of evidence which it considers repetitive or irrelevant.

(d) Documents and charts submitted in evidence will be fully described by the Board or by witnesses before being introduced into the record. They will be appended to the report of the investigation as exhibits.

(e) Ship models or templates of suitable scale may be used to illustrate maneuvers or movements of ships on charts or sketches.

(f) The order in which witnesses are called is at the discretion of the Board. As a rule, a representative from the ACP Topographic, Hydrographic and Cartographic Section (IAIT) is called first to present to the Board the chart showing the area where the accident occurred. The pilot concerned is then ordinarily called as a witness,

followed by the master of the vessel involved. If two vessels are involved, these witnesses are generally followed by the pilot and master of the second vessel. All other witnesses are called to testify in the order which the Board considers is best suited to develop the testimony in an orderly manner so as to provide continuity and clarification of the evidence.

(g) Witnesses are initially examined by the Board. Should the witness be a party in interest and represented by counsel, such counsel will be permitted to examine the witness immediately following the Board's examination. The Board then designates the order and manner in which other parties in interest and their counsel may cross-examine witnesses.

(h) The examination of a witness by the Board or witnesses of a party in interest by the counsel representing him, are considered to be direct examination. The examination by the other parties in interest or their counsel is considered to be cross-examination.

(i) Leading or suggestive questions are not allowed during examination of witnesses except, at the discretion of the Board, when such questions are required for a full and true disclosure of the facts or serve to expedite the investigation.

(j) An examiner may cross-examine the witness as to any facts stated or related to his testimony during examination.

(k) A witness may refresh his memory by anything written by himself or under his direction at the time of the accident or immediately thereafter.

(l) A witness may request that his testimony be read back to him from the reporter's notes so that he may verify, correct or amend it. If the correction or amendment is material, the witness may be further examined on the subject affected by the correction or amendment.

(m) With the exception of the Board, statements of fact or qualified opinions will not be allowed unless the person making such statements or stating an opinion is actually on the witness stand. Parties in interest and their counsel wishing to make such statements or to give qualified opinions will be given an opportunity by the Board to do so at a specified time.

(n) The BI Chairman will rule on any objection or procedural questions raised by the parties in interest. His decision on such matters is final. The Board may exclude from the hearing any individual who unduly disrupts the proceedings.

j. Reports of Investigations:

(1) In each case, the BI shall submit to the Administrator a final, detailed report of each investigation proceedings that is carried out. The report sets forth the facts and circumstances surrounding the accident, the nature and extent of the injury, and the amount of damages, if any, by the accident. It shall include a transcript of the hearing,

together with its opinion with respect to the accident. The findings and opinion are rendered by the full Board, even though the hearing may have been conducted by a single or two-man Board.

(2) The report of these proceedings shall not be used as the basis for the application of disciplinary actions to Authority personnel.

(3) Upon agreement of the full Board, the report with its findings and opinion is distributed to all parties in interest, their counsel, and other appropriate ACP offices.

(4) All official records and documents of the Board of Inspectors shall be open to public examination at the office of the Board of Inspectors.

12.7 Formal Administrative Investigations

Formal Administrative Investigations (FAI) of maritime accidents/incidents are generally requested by OP; however, the Canal Operations Captain (COC), chief pilot, or other OP executive manager may request investigations to OP.

Once the need for an investigation has been determined, OP, or his designee, will appoint an Investigative Committee composed of at least three members and, if required, an administrative assistant who will be assigned to prepare the transcript of the investigation hearing. If the accident/incident involves ACP floating equipment, the investigative Committee should include a specialist from the Maritime Safety Unit (OPXI-S). The Committee will meet at a convenient place in a timely fashion.

a. Procedures: Administrative investigation will be guided by the following basic procedural steps:

(1) *Preliminary analysis:* The Committee will make a preliminary analysis of the accident/incident to decide procedures to be followed, information required, employees or witnesses that will be interviewed, documents required, information required from other ACP units, indications of safety defects on the equipment involved, need for photographs or diagrams, data from transiting vessel, and/or any other information that the Committee considers relevant for the purpose of the investigation.

(2) *Fact finding:* This step involves gathering information by personal interview or other method to support or disprove case information. Eyewitness statements, photographs, diagrams, vessel data, weather, chemical analyses, inspection of site or equipment are valuable sources of information that shall be carefully evaluated. The investigator shall keep in mind that important leads may arise from information that initially appears to be of little or no value.

(3) *Verification and evaluation:* Evidence shall be checked against the plan or outline of the investigation in order to:

- (a) Ensure sufficient or additional information is required;
- (b) Determine accuracy and authenticity of documents or evidence;
- (c) Assure adequacy of investigation efforts and procedures; and,
- (d) Resolve conflicting information by obtaining additional evidence from the same and/or other sources.

(4) *Conclusion and recommendations*: Once the information has been evaluated, the Committee will determine what course of action will be taken in order to complete the investigation.

Conclusions should be supported by the facts and should establish:

- (a) The primary cause of the accident/incident;
- (b) Contributing factors; and,
- (c) Resolve conflicting versions.

Recommendations:

- (a) Should be based upon the findings of fact and flow logically from facts and conclusions. Unsupported and non-pertinent recommendations must be avoided;
- (b) Should be limited generally to such remedial actions related to the particular case;
- (c) Should be clear, simple, and easily understood;
- (d) Should propose specific safety and corrective measures;
- (e) Should state whether current regulations are inadequate;
- (f) Should disclose whether there was a lack of experience on the part of employees and recommend whether additional training is required.
- (g) May provide referral to the appropriate authority for subsequent disciplinary inquiries when there is evidence of negligence, gross errors of judgment, violations of rules and regulations or operating procedures which could or did result in loss of life or property, serious injury, substantial damage to any structure, plant or equipment, or damage to the environment.
- (h) May indicate whether the case is to be closed or if further investigation is in order.

Recommendations for recognition of heroic, distinguished, or meritorious acts should be made in a separate report.

b. *Ethics of Investigators and Witnesses*: Investigators shall be professional and courteous and shall maintain a positive attitude throughout the investigation. They

shall also maintain an impartial attitude, be open-minded, and should avoid jumping to conclusions based on evidence obtained early in the investigation. During the investigation, they should remain open-minded to evidence pointing to different conclusions than those supported by other very strong evidence.

Witnesses shall provide full cooperation to investigators and their statements shall be signed. A Panama Canal Authority employee witness who refuses to testify on information that cannot be obtained from another source, and which prevents the investigation from proceeding, is subject to disciplinary action.

c. *Employee's Right to Representation:*

(1) The employee has the right to request the presence of a union representative during the interview, if he believes the examination may result in disciplinary action against him; however, there is no requirement that an interview be postponed because a particular representative is not available.

(2) An employee cannot be insulated from management's questions during an investigation. That is, an employee does not have the right to remain silent when questioned concerning administrative matters. The right to remain silent applies only when the employee has a reasonable belief that his/her statement will be used in a criminal proceeding.

(3) Regarding the union representative's participation in an investigation of an employee, he/she:

- (a) May not answer for the employee;
- (b) May not attempt to control the investigation; and
- (c) Does not have the right to a caucus, and as such, may not ask for one.

d. *Conducting the Examination:*

(1) Direct examination will continue until the Committee is satisfied. Nothing should be assumed when questioning a witness, as assumption can result in failure to obtain vital facts.

(2) Witnesses shall be given an opportunity to rest prior to the interview. He may be requested to present a written statement prior to the interview and will be given the opportunity to present evidence supporting his statements. The interview shall be performed in a friendly and courteous environment. All present can take notes.

(3) The Committee will decide if the interview will be recorded, based on their judgment of the severity of the incident/accident. If the interview is recorded, the administrative assistant to the Committee will prepare the transcript. The interview will be conducted in Spanish.

e. *Preparation of the Report:* The Committee shall submit the report within 30 working days after it is appointed. If more time is needed, an extension may be requested to the Executive Vice President for Operations. The timely submission of the investigation report, findings, and recommendations are essential to ensure the reliability of the actions taken as a result of the investigation. This is of utmost importance when actions are directed to correct unsafe conditions or practices.

The Report will include:

- (a) Transmittal letter to OP;
- (b) OP case number;
- (c) An index and names of enclosures;
- (d) Committee members and titles;
- (e) Date the Committee convened;
- (f) Description of accident/incident;
- (g) Name of witnesses;
- (h) Cause of accident/incident;
- (i) Conclusions;
- (j) Recommendations;
- (k) Committee names and signatures;
- (l) Transcripts of interviews if recording was required;
- (m) Written statements properly signed by the person giving the statement;
- (n) Photographs and diagrams; and,
- (o) Documents gathered during the investigation.

f. *Preliminary Report:* Within 72 hours, the Chairperson shall submit to OP a preliminary report regarding offense(s) committed, employee(s) involved and subsequent damages. This action is directed at expediting corrective actions, if appropriate, and the completion of the investigative process.

g. *Review and Approval of Report:*

(1) The investigation report reflects the quality of the investigation and should include sound conclusions and recommendations. After careful consideration, conclusions and recommendations shall be agreed to by the Executive Manager of the division(s) involved. Errors and disagreements shall be resolved at this level before the final report is submitted to the reviewing officer. Unresolved disagreements may be addressed by adding an endorsement stating: "Reviewed by the Executive Manager, subject to the following comments."

(2) The reviewing officer shall evaluate the report thoroughly. Errors and disagreements at this level may be addressed by adding an endorsement stating: "Approved, subject to the following comments."

(3) If discrepancies cannot be resolved in this manner, the report must be returned for revision. Usually, the report may be returned for revision whenever:

- (a) Facts are insufficient, incomplete, or obviously in error;
 - (b) Conclusions are in conflict with or are not supported by the facts;
 - (c) Recommendations are unsound, not pertinent or contain erroneous citations;
 - (d) The report contains improprieties, imprudent disclosures or extraneous matter;
- or
- (e) The basic purpose for the investigation has not been accomplished.

(4) An Investigation report is considered complete after approval and signature by the reviewing official.

12.8 Administrative Reports

a. The Administrative Report is a document prepared by the Canal Operations Captain (COC) for the Vice Presidency of Legal Counsel Maritime Claims Office describing the circumstances surrounding a maritime accident/incident. Administrative Reports shall be submitted on all maritime accidents/incidents, regardless of the magnitude, whether or not a release was signed by the master, and whether or not a BI was requested. Normally, it includes the following:

- (1) Name, description, flag, and agent of the vessel;
- (2) Name of first and second control pilots;
- (3) Date and direction of transit;
- (4) Location, time, and brief description of accident/incident;
- (5) Who was the control pilot at the time of the accident/incident;
- (6) Description of damages to vessel(s) and ACP property; injured person, if any;
- (7) Name of the ACP and agent's representatives that boarded the vessel to assess damages;
- (8) A statement that the master was advised of his right to an investigation, and if he elected to or declined to sign Release Form 4327, "Notice of Effect of Departing without Investigation";

(9) A statement that the master was advised that his right to an investigation would be forfeited if the vessel were to depart from Canal waters without an investigation and that a copy of the latest issue of the OP Notice to Shipping on Maritime Accident Investigations was furnished;

(10) Date and time the vessel departed for sea;

(11) Original signed Form 4327; and

(12) Original pilot's report.

b. A report of the accident/incident signed by the control pilot must accompany each Administrative Report. The pilot report must be sent to the COC within 36 hours of termination of duty assignment in which the accident/incident took place. It shall include the following:

(1) A factual description of what actually occurred;

(2) Date, approximate time, and location of the incident;

(3) Weather conditions;

(4) A report on vessel's personnel and equipment performance at the time of the incident;

(5) A report on ACP personnel and support equipment performance at the time of the incident; and

(6) A report on any other consideration relevant to the incident.

12.9 Continuity of Operations after an Incident Involving a Fatality

a. Maritime accidents/incidents involving death of a person or discovery of a body in the course of Canal operations should not result in and of itself in the suspension of operational activities in the immediate vicinity until pathological and law-enforcement authorities have examined and removed the body. Such a disruption of Canal operations is not envisioned. Moreover, this suspension of activity actually risks compounding an incident by jeopardizing and destabilizing concurrent and sequential dynamic operational activities.

b. Immediate suspension or redirection of operational activity at the scene of such an incident is necessary, as long as there is a possibility of preserving a victim's life and is entirely appropriate to preclude further damage to a body. Once emergency fire, rescue, paramedical or medical personnel have removed an injured victim or confirmed the absence of life, there is nothing to preclude transfer of the victim to the extent necessary to resume operations. Efforts should be made, however, to see that

site conditions and evidence that might have contributed to the incident are preserved.

c. Existing emergency notification, response, recovery, documentary and investigation responsibilities and authority of individual employees, supervisors and managers are not abridged by this guidance, which is specifically intended to confirm that death or discovery of a body does not, in and of itself, require suspension of operations.

12.10 Intoxication and Accidents

The ACP is committed to a drug-free workplace and a safe and healthful environment. It recognizes that impairment on the job due to drug and alcohol intoxication poses a threat to the well-being of employees, as well as to the ACP, and customer's property and equipment. Drug and alcohol abuse will not be tolerated in the ACP. The risk to the health and safety of employee is too great in an organization such as the ACP, which is engaged in hazardous work around the clock.

In the event of a serious accident, it is the responsibility of the supervisor to request alcohol and drug tests for all on duty employees who could reasonably have been involved in the events which led to the accident, regardless of whether or not the supervisor believes they have been alcohol or drug-impaired. Supervisors who fail to enforce ACP regulations on drug and alcohol abuse may be subject to disciplinary action.

After any serious accident, the supervisor or his designee should:

- (1) Relieve the employee from his duties;
- (2) Order the employee to take a breath and urine test;
- (3) Take the employee for testing;
- (4) Take appropriate action if employee refuses testing; and
- (5) Place the employee on leave for the remainder of the shift, if unable to perform work safely and efficiently.

Alcohol and drug tests shall be taken immediately without delay. During weekends and non-working hours the on-call personnel for these tests can be contacted through the ACP operator. If the on-call personnel is unavailable, tests shall be performed during the first work hour of the first workday after the accident.

The same procedure will be followed after any accident/incident when a supervisor or his designee observes an employee not in full control of his faculties because of suspected alcohol or drug abuse.

Detailed procedure for above actions and responsibility of supervisors and employees are outlined in the ACP Employee Assistance Program Supervisors' Handbook.

12.11 Catastrophe Insurance and Reporting Procedures

The Panama Canal Authority has a multi-peril policy under the catastrophe insurance program that covers, among others:

a. *Loss and/or damage to ACP property:*

(1) Non-marine: All physical loss or damage to ACP property on a replacement cost basis which includes, but is not limited, to property on land, such as buildings, machinery, and plant installed therein; property in course of construction and/or repair (subject to limits and terms to be agreed by insurers if exceeding \$15,000,000 estimated contract value; other than property in course of reconstruction and/or repair following physical loss or damage covered under this section of the policy); dams, including saddle dams, bridges, locks, lock gates, miter gates, locomotives and their machinery and tracks; static property located in or over water, but supported by legs; piers or other structures in the bed of the Canal or lakes, or on the banks, including third party property in which the ACP has an insurable interest or is responsible to insure.

(2) Marine: All risks of physical loss or damage to insured vessels, craft, barges, locks gates and collision liabilities Including provision to add vessels, units of every description to cover herein whilst in the ACP's care, custody or control subject to a maximum value any one time of \$2,500,000.00 any one item.

b. *Liabilities/Costs and Expenses:*

(1) Legal and/or contractual liability arising out of all ACP operations, including, but not limited, to bodily injury, property damage, and liability for loss or damage to vessels in the course of transit through the Canal.

(2) Costs and/or expenses incurred in clearing the Canal of vessels, objects or other obstruction, including landslide, to ensure Canal and/or Canal facilities are kept open.

(3) Voluntary costs, including legal costs and expenses, of removing, nullifying and taking preventative measures as a result of a sudden and accidental occurrence which results in seepage, pollution or contamination.

c. *Loss of Revenue:*

(1) Canal Transit: Loss of damage resulting as a consequence from any accident or occurrence covered under "*Loss and/or damage to ACP property*" or "*Liabilities/Costs and Expenses*" coverage, that results in a total or partial closure of the Canal and/or

renders the Canal facilities totally or partially inoperative, suffering a reduction in revenue for a period.

(2) All other revenues: Loss of damage resulting as a consequence from any accident or occurrence covered under “*Loss and/or damage to ACP property*” or “*Liabilities/Costs and Expenses*” coverage, that results in a total or partial closure of the Canal and/or renders the Canal facilities totally or partially inoperative, suffering a reduction in revenue for a period.

d. Sabotage and Terrorism:

Property damage and loss of revenue combined, excluding chemical, biological, cyber, hoaxes and threats.

e. Marine Contingencies:

Costs, liabilities or expenses, including loss of revenue, incurred in an accident involving a vessel transiting the Canal:

(1) To the extent of a Protection and Indemnity Coverage (P&I) equivalent to an entry with a member of the International Group of Protection and/or indemnity associations.

(2) Hull and Machinery cover equivalent to American Institute Clauses in case where:

- (a) The vessel transiting the Canal does not have P&I cover and/or Hull and Machinery Cover; and/or
- (b) The vessel transiting the Canal does not have the said cover, the cover is not valid or is inadequate and/or where the underwriters thereon are able to successfully plead any policy defense to deny coverage.

All ACP operating units have the responsibility of reporting, through Form 1202 and/or 1203 (when applicable), all loss or damage resulting from any accident or occurrence, regardless of the cause, who is at fault, or its cost.

Details of the procedures on how to report and complete Forms 1202 and 1203 for the accident or occurrence are outlined in Section 70 of the Financial System Manual.