



DEPARTMENT OF THE NAVY
COMMANDER MILITARY SEALIFT COMMAND
914 CHARLES MORRIS CT SE
WASHINGTON NAVY YARD DC 20398-5540

COMSCINST 5890.6B
N2
22 June 2004

COMSC INSTRUCTION 5890.6B

Subj: Settlement of salvage claims with the Supervisor of Salvage, U.S. Navy

Encl: (1) Memorandum of Agreement between COMSC and SUPSALV
(2) SUPSALV ltr 4740 Ser OOC/0035 of 18 Dec 2002

1. Purpose. To transmit enclosures (1) and (2) and establish procedures for settling billings from the Supervisor of Salvage, U.S. Navy (SUPSALV) for salvage services to MSC ships and cargoes by other elements of the Navy or SUPSALV contracted services.

2. Cancellation. COMSC Instruction 5890.6A.

3. Discussion

a. Enclosure (1) is a memorandum of agreement reached between COMSC and SUPSALV for payment to SUPSALV for salvage services rendered to Government-owned ships of the MSC fleet and MSC chartered vessels. It contains provisions for the settlement of claims when the services are rendered by U.S. Navy ships or craft or by contract-operated salvage ships or by salvors under contract to SUPSALV.

b. Enclosure (1) contemplates the direct payment by MSC to SUPSALV rather than through the medium of general average. The purpose of this is to eliminate additional charges that would be incurred by the handling of this payment from one Navy activity to another through general average. This will also avoid a burden on the owners of MSC chartered vessels, who might otherwise make a salvage payment to SUPSALV on behalf of MSC cargo and then have to carry such charges on their accounts until payment of general average by the United States.

c. Enclosure (2) is a letter of agreement from SUPSALV whereby the Supervisor of Salvage has agreed to place monetary limits on affirmative Navy salvage claims made against MSC chartered vessels that are carrying Government cargo.

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4. Action. Action addressees will insure that MSC's Office of Counsel is advised in writing of all incidents where salvage services are provided by U.S. Navy ships or craft or by contract-operated salvage ships or by salvors under contract to SUPSALV to MSC vessels (both Government-owned and chartered). This will help ensure that claims for salvage services to government cargo on a chartered ship are not billed to a general average adjuster. Claims or payment requests from SUPSALV to MSC shall be coordinated with the Office of Counsel before any payment is authorized.

D. A. LOEWER

Distribution:

LIST I (Case A, B, C)

SNDL 41B (MSC Area Commands)

41C (NFAF East/West)

41D (MSC offices)

Copy to:

Supervisor of Salvage, U.S. Navy

MEMORANDUM OF AGREEMENT

1. The Commander, Military Sealift Command, and the Supervisor of Salvage, USN, do hereby agree that the following provisions of this agreement contain the policies and procedures to be followed whenever salvage services are rendered to the categories of ships and vessels described herein, and for which salvage services the Supervisor of Salvage, USN, is authorized to assert affirmative salvage claims pursuant to the authority delegated to the Supervisor of Salvage, USN, under Section 7365 of Title 10, United States Code.

a. The Supervisor of Salvage, USN, will bill, and MSC will pay, in accordance with the following procedures, for salvage services provided by the Supervisor of Salvage to Government-owned ships of the MSC fleet, and to commercial ships transporting cargo shipped by MSC (MSC cargo), as follows:

(1) For Government-owned ships of the MSC fleet, including USS ships, USNS ships (civil service-manned or contractor-operated), bareboat chartered ships and General Agency Agreement (GAA) ships, as follows:

(a) When salvage services are provided by U.S. Navy ships or craft, MSC will reimburse the Supervisor of Salvage for the cost of fuel, water, and lube oil expended, and for the cost of replacement of materials, supplies, and equipment lost, damaged beyond repair, or expended during such salvage operations.

(b) When salvage services are provided by contract-operated salvage ships, under a husbanding type contract with the U.S. Navy, and administered by the Supervisor of Salvage, MSC will reimburse the Supervisor of Salvage for the cost of fuel, water and lube oil expended, and for the cost of replacement of materials, supplies and equipment lost, damaged beyond repair, or expended during such salvage operations, and in addition, for any overtime wages required to be paid the crew of such vessels under the terms of the contract, where such overtime wages are the direct result of such salvage operations.

(c) Where salvage services are provided to such ships under any other contract that the U.S. Navy has, which is administered by the Supervisor of Salvage, USN, MSC will reimburse the Supervisor of Salvage for any amount that the U.S. Navy is obligated to pay the commercial salvor in accordance with the terms and conditions of the contract.

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(2) For commercial vessels transporting MSC cargo, including time and voyage chartered ships, and ships transporting MSC cargo under shipping and container agreements, shipping contracts, and bills of lading, as follows:

(a) In cases where salvage services are provided to these vessels and the owner declares General Average, the Supervisor of Salvage will bill MSC directly, and MSC will reimburse the Supervisor of Salvage for MSC cargo's share of the total amount of the salvage services provided, whether the services are rendered by U.S. Navy salvage ships and forces on a per diem basis in accordance with rates published in Part 754 of the Code of Federal Regulations, or by contract-operated salvage vessels under contract with the U.S. Navy and administered by the Supervisor of Salvage.

(b) In cases where salvage services are provided to these vessels and no General Average has, or will, be declared, the Supervisor of Salvage will notify MSC of the salvage services rendered and that no General Average will be declared, and will request MSC to make a determination of the value of the government's cargo. After such a determination, the Supervisor of Salvage will bill MSC directly for the MSC cargo's share of the total amount of the salvage services provided whether by U.S. Navy salvage ships and forces on a per diem basis in accordance with rates published in Part 754 of the Code of Federal Regulations, or by contract-operated salvage vessels under contract with the U.S. Navy and administered by the Supervisor of Salvage.

(c) In those cases where the Supervisor of Salvage elects to claim on a salvage bonus basis for salvage services provided to these classes of vessels, the Supervisor of Salvage agrees to consult with MSC concerning the amount to be paid by MSC for such services.



DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND
1333 ISAAC HULL AVE SE
WASHINGTON NAVY YARD DC 20376-0001

IN REPLY TO

4740
Ser 00C/0035
18 DEC 2002

From: Commander Naval Sea Systems Command (SEA 00C)
To: Commander, Military Sealift Command

Subj: LIMITS ON SALVAGE CLAIMS AGAINST MSC-CHARTERED VESSELS

1. Purpose. This letter confirms the policy, effective this date, to place monetary limits on affirmative Navy salvage claims made against MSC-chartered vessels that are carrying Government cargo.

2. Background. Rendering assistance to a vessel in distress typically results in a claim for a salvage award based on the value of the assisted vessel and cargo, often referred to as a "pure" or "bonus" salvage claim. Occasionally, the commencement of critical salvage services can be unduly delayed because of a Master's reluctance to accept assistance that might incur a large financial liability, thus increasing the likelihood the vessel/cargo may be unnecessarily lost or damaged. Unfortunately, such situations have arisen in the past involving MSC-chartered vessels carrying government cargo in cases where the Navy was offering timely salvage assistance.

3. Discussion. While the Navy is entitled by law to assert a traditional claim for salvage services based on the value of the vessel and cargo, it makes sense to significantly limit the Navy's claims in cases involving MSC-chartered vessels (with government cargo) in order to encourage their Masters to readily accept offers of Navy salvage assistance, thereby reducing the risk to both the vessel and government cargo. The Assistant Supervisor of Salvage (Admiralty), located within this office, has the delegated authority to assert, compromise, and settle affirmative salvage claims on behalf of the Navy. After consultation with the MSC Office of Counsel, the Assistant Supervisor of Salvage (Admiralty) has recommended that this office formally endorse a policy of establishing monetary limits on salvage claims that might be asserted against MSC-chartered vessels (carrying Government cargo); I agree.

4. Policy. Consequently, this office agrees to waive any claim for pure or bonus salvage in the case of MSC-chartered vessels (carrying Government cargo). Instead, in those cases where Navy vessels/personnel provide the assistance, we will limit the Navy's claim for salvage services to a schedule of current per diem rates and allowable expenses as established by the Navy's Supervisor of Salvage (SUPSALV)--but in no event to exceed a

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maximum claim of \$25,000 per day. In those situations where the Navy utilizes salvage contractors to deliver the assistance, the vessel owner will be liable for the actual daily rate charged to the Navy by such contractors; depending on the circumstances, this amount may exceed \$25,000 per day, but it will almost certainly be significantly less than a traditional salvage award.

5. You may convey the above stated policy to your vessel contractors whenever it will assist your operations. Hopefully, it will serve as an inducement to quick cooperation from vessel Masters and vessel owners during appropriate salvage situations.

Furthermore, this policy will not be revoked without actual and effective notice to the interested parties. Please contact the Assistant Supervisor of Salvage (Admiralty) at (202) 781-0465 if we can be of further assistance.



J. R. WILKINS III

Supervisor of Salvage and Diving
Director of Ocean Engineering