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DEPARTMENT OF THE NAVY

SEP 26 1966

NAVAL SHIP SYSTEMS COMMAND  
WASHINGTON, D. C. 20360

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**MASTER**  
**USNS POPE T-AP110**

NAVSHIPINST 4740.4A  
SER OOC-531  
30 August 1966

NAVSHIP INSTRUCTION 4740.4A

From: Commander, Naval Ship Systems Command  
To: Distribution List

Subj: Ship Salvage Operations - Claims or Charges by Navy Department  
arising from

Ref: (a) 10 U. S. Code sec 7361-7367  
(b) Delegation of Authority by SECNAV to Chief, BUSHIPS (now  
Commander, Naval Ship Systems Command) of 2 Mar 1960  
(c) Delegation of Authority to SUPSALV and ASTSUPSALV of  
2 Mar 1960  
(d) Title 32, Code of Federal Regulations, Section 754.2  
(e) JAG Instruction P5800.7

Encl: (1) Navy Department Salvage Rates and Policy  
(2) Suggested ltr to be obtained upon delivery of salvaged  
property

1. Purpose and Scope

a. This instruction assigns responsibility for the reporting and documenting of salvage services rendered by naval activities. It also contains directions for preparing, processing and disposing of claims or charges arising from the performance of such services.

b. This instruction applies to salvage and recovery services, including the underwater search phases associated therewith, rendered to aircraft on the high seas or other navigable waters as well as to ships, boats and floating equipment. It also applies to cargo in or from such aircraft and vessels and to random equipment which may be lost below the water's surface.

c. This instruction does not assign responsibility for determining whether, when, or by what operating forces salvage services shall be rendered. Guidance in such matters is furnished by the following:

- (1) Article 0629 Navy Regulations 1948
- (2) OPNAV Instruction 4740.2 series
- (3) BUSHIPS Instruction 4740.1 series
- (4) Applicable Fleet, Force and Area Commander Instructions

d. Nothing in this instruction is intended to restrict or modify pertinent provisions of Article 0629, U. S. Navy Regulations, providing for assistance to ships and aircraft in distress, i.e. operations of a humanitarian or life saving nature. It does, however, apply to salvage work undertaken subsequent to an SAR operation.

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2. Cancellation. This instruction supersedes and cancels BUSHIPS Instruction 4740.4 of 1 September 1961, Ser 106-5.

3. General.

a. "Marine salvage" is a service voluntarily rendered in rescuing property from an impending peril on the high seas or on other navigable waters by those under no legal obligation to do so. The peril need not be imminent. It is sufficient that when the service is rendered the ship has had a casualty which could reasonably be expected to expose her to greater damage or destruction unless she obtains assistance. As used in this instruction, the term "salvage service" does not apply solely to instances where the imperiled vessel or property is saved. The term is also used to describe an attempt to save property irrespective of whether the attempt succeeds or fails. The term also includes work involved in attempting to raise sunken ships, aircraft, and cargo. The term "salvage facilities" in this instruction means personnel, ships, (regardless of whether they are salvage-type vessels) and equipment utilized in rendering salvage services.

b. A salvage operation may include the following phases:

(1) Search -- Underwater or surface search for the object to be salvaged. This search is distinct from, and generally follows, the search and rescue (SAR) operation which is concerned with the saving of lives and personal property.

(2) Recovery -- The actual work of raising, retrieving (i.e. rescue towing), or refloating the distressed ship or object.

(3) Delivery -- The towing, transporting or escorting of the recovered object to a safe haven or other designated place for delivery to the owner or legal custodian.

c. Reference (a) authorizes the Secretary of the Navy to provide salvage facilities for public and private vessels and empowers him or his designee to settle, administratively, claims for salvage services performed by the Navy. By references (b) and (c), the processing and collection of such claims has been delegated to the Chief, Bureau of Ships (now Commander, Naval Ship Systems Command) and, ultimately, to the Supervisor of Salvage and his assistant.

4. Terms and Conditions of Salvage Services.

a. When services are furnished to merchant shipping or commercial aircraft:

(1) Enclosure (1) sets forth the Navy Department's policies and practices as well as the per diem rates chargeable when salvage assistance is rendered to commercial shipping or aircraft. (This information is also promulgated officially in reference (d).) The fees and per diem charges

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applicable to the use of Navy ships and equipment are set by the Supervisor of Salvage and such charges are made regardless of whether or not the assisting ship is a salvage-type vessel. When Navy assistance has been proffered and accepted by the Master of a vessel, the salvage operation should proceed without undue delay to prevent any further deterioration in the ship's position. No written "salvage agreement" is to be obtained from the assisted vessel's representatives; nor is the rendering of assistance to be conditioned upon (or held in abeyance pending) the assisted vessel's representatives signing a waiver of claim or indemnity agreement. Once a salvage operation is undertaken, the salvor is bound to exercise due diligence and ordinary skill and to proceed with the work without unnecessary delay. The salvor may be held liable if he performs in a negligent manner.

(2) Before Navy salvage services may be furnished to commercial ships or aircraft two criteria must be met:

(a) There must be no adequate commercial salvage services available. (If the distressed vessel appears in jeopardy, however, temporary assistance may be provided pending arrival of a commercial salvor.)

(b) There must be a definite and unequivocal request from the distressed ship's owner, agent or master for Navy salvage services. This request may emanate from the ship or, quite possibly, from owners or agents in New York or London. (The necessity for such a request for assistance is not to be confused with the prohibition against requiring the written salvage or indemnity agreement referred to in (1) above.)

(3) Type of Salvage Contracts - "No Cure-No Pay" and "Per Diem".

(a) Salvage efforts by private salvors are customarily conducted under Lloyd's Standard Form Salvage Agreement or a similar "no cure-no pay" type of contract. Under such an agreement, if the property is not saved, the salvor gets nothing for his efforts. If only part of the property is saved (i.e. cargo, tackle, machinery, etc.) the award is based on a fair percentage of the value of the property saved. The monetary amount of the award is usually arrived at by taking into consideration such elements as the degree of danger from which the property is rescued, its value, the risks taken by the salvors, the value of the property used by the salvors in the operation and the speed, skill and energy which they demonstrate in doing the job.

(b) When salvage services are furnished by the Navy, billing is usually on a "per diem basis", that is, at a pre-established rate per day for each ship engaged in the salvage effort. Although there is no legal prohibition against the Navy's making a claim for a bonus salvage award, this is rarely done since the Navy is not in

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the salvage business for profit but, rather, to render a public service to the maritime industry when private salvage facilities are not available. If a situation were to arise in which the signing of a Lloyd's Form became mandatory, it is unlikely that the Navy would either perform (or accept) salvage services on that basis. Under the terms of the Lloyd's Form, the parties agree to arbitration conducted by Lloyd's, at London, and it is doubtful that the United States, a sovereign power, would submit to the arbitrament of a foreign private corporation.

(4) The Supervisor of Salvage is solely responsible for obtaining the security, if any, to guarantee payment for salvage services rendered by the Navy. If, with his approval, operational commands obtain such security in cash deposit form, the depositor should be advised in writing that the deposit will be applied against the Navy's total charges but with reservation of all rights to claim on a bonus award basis if the Navy should so elect. (Cash deposits should be credited to the appropriate suspense account pending determination of final charges.)

(5) When a salvage operation has been completed and the salvaged vessel delivered to her master, it is advisable, although not legally necessary, to obtain a written "Delivery Certificate" signed by the master. Enclosure (2) is a suggested form for such a certificate. In the case of a rescue tow or escort, the operation may be terminated upon the request of the owner, agent, master or the agency which originally requested the service.

b. Services furnished to MSTS and MARAD.

(1) When salvage services are furnished to Military Sea Transportation Service vessels by other naval ships, charges may or may not be made depending on the status of the particular vessel. In addition to manning and operating Government-owned ships, MSTS is also responsible for the procurement of additional privately owned tonnage under bareboat, time or voyage charter or contract of carriage, as needed. Since Government-owned MSTS ships, whether manned by military or civilian (civil service) personnel are public vessels of the United States, charges are not normally made for salvage services (other than direct out-of-pocket expenses - i.e. materials and equipment lost, damaged or expended). The same would be true if MSTS were to "bareboat charter" a ship, that is, hire a privately owned ship for a given period of time to be manned, provisioned and operated by MSTS personnel.

(2) When MSTS "time charters" a ship (hires a fully manned and equipped vessel for a stated period of time) or "voyage charters" a ship (hires a fully manned and equipped ship for a single voyage), the terms of the charter party generally provide for hull insurance and protection and indemnity (P&I) insurance. In such cases, salvage claims will be asserted by the Navy inasmuch as payment will ultimately be for the account of underwriters. MSTS also ships cargo by ocean common carrier under a "shipping contract" which is an indefinite quantity type contract of affreightment which sets forth the rates, terms and conditions under which

the carrier will transport the cargo offered on Government bill of lading, subject to the availability of space in the carrier's vessel. A salvage claim is also asserted in these cases, however, it should be noted that if the ship is carrying a substantial amount of Government cargo at the time of the casualty the charges are sometimes waived if Navy salvage assistance is requested promptly as explained in paragraph 6 of this instruction and in enclosure (1).

(3) Another category of MSTTS vessels is the "contract operated tanker". Naval tankers (public vessels) are turned over to a private contractor for manning, provisioning and operation. MSTTS retains control over the cargo carried and also assigns the vessel's operating schedule. (Recently certain range ships used for tracking purposes have also been placed in a similar status.) Since the private contractor is not required to carry hull insurance on these ships salvage expenses would normally be for the account of the Government, therefore, only actual out-of-pocket expenses will be billed.

(4) In addition to the MSTTS contract operated vessels, the Maritime Administration also operates ships under an arrangement known as a "General Agency Agreement". These MARAD ships carry no hull insurance coverage. Inasmuch as the Maritime Administration is a branch of the Department of Commerce and not of the Navy Department, claims for salvage services will be asserted, but on the basis set forth in the next paragraph which discusses non-Navy public vessels and aircraft.

c. Services to U. S. Public Vessels and Aircraft (non-Navy).

(1) In general, salvage services to non-Navy United States owned public vessels (example: Army tug, U.S.C.G. craft, U.S.C.&G. survey ship, etc.) and Government-owned aircraft (non-Navy) are undertaken at the discretion of the cognizant operational commander or upon direction of higher authority. In such cases it should be ascertained at the outset how the served agency will reimburse the Navy for the services. Charges are normally limited to the cost of the fuel, water and lube oil plus direct out-of-pocket expenses (materials lost, damaged or expended).

(2) The served agency should cite funds to cover these expenses. Failure to cite funds, however, should in no case delay performance of the salvage service. In some cases the served activity may cite funds which only partially cover the expenses. In such instances, the post-salvage report should carefully document which costs have or have not been covered so that the Supervisor of Salvage may submit a bill for the balance. If no funds have been cited, the Supervisor of Salvage will render a total billing.

(3) All work for the Civil Aeronautics Board (CAB) is handled in a manner similar to work on a public vessel or aircraft. The CAB, which was created by federal statute, (Title 49 U. S. Code section 1321 et seq.) is charged with the duty of investigating accidents involving civilian aircraft and reporting the circumstances relating to each acci-

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dent and the probable cause thereof. It also makes such recommendations as, in its opinion, will tend to prevent similar accidents in the future. Title 49 U. S. Code section 1441(d) provides that any civil aircraft involved in an accident shall be preserved and shall not be moved except in accordance with regulations prescribed by the Board. In any investigation of an air accident, the first and most important task is recovery of the wreckage which is, by law, under the exclusive jurisdiction of the CAB until the investigation is completed. While the Board is conducting its investigation neither the owner of the aircraft nor any person other than the Board's investigative personnel and those persons authorized by the Board's Bureau of Safety are entitled to move or disturb the wreck or have access to any of the wreckage recovered. In carrying out its statutory responsibility, the Board may call upon the services, equipment and personnel of the Navy. Title 46 U. S. Code section 1322(d) provides: "The Board is authorized to use, with their consent, the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis when appropriate." In such instances, the services performed by the Navy are on behalf and under the control of the Board, and not the owner of the aircraft. Whenever a naval activity renders salvage assistance to downed aircraft at the request of the Civil Aeronautics Board, a report of such assistance should be submitted in accordance with paragraph 5 below.

(4) In the case of work performed in inland waterways and harbors for the Coast Guard or the Army Corps of Engineers, it should be ascertained at the outset whether the service is purely a governmental function or whether legal action is being contemplated against some private party to reimburse the Government for the salvage expense. Such information is necessary in order to determine whom to bill and what charges to include.

## 5. Salvage Reports and Collection of Salvage Claims.

### a. General

(1) The Supervisor of Salvage is responsible for processing salvage reports submitted to him and for asserting the claim, therefore, whenever salvage services are undertaken by a naval vessel or activity, a complete report of the services performed shall be forwarded promptly to the U. S. Navy Supervisor of Salvage, 99 Park Avenue, New York, New York 10016. If the Supervisor of Salvage is unsuccessful in collecting the claim administratively, he may ultimately refer the matter to the Judge Advocate General who will, if necessary, forward it to the Department of Justice with a recommendation that suit be filed.

(2) There are several reasons why a salvage operation report must be fully documented and complete in all respects. In the case of operations involving commercial ships or aircraft the report, of course, becomes the basis of the per diem claim or salvage award.

(3) In addition to the statutory provisions and other directives regarding the processing of claims for salvage services, however, there

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are also other reasons for complete reporting and documentation, notwithstanding the fact that charges may sometimes be waived. Salvage is, by definition, a "case business". Some years are busy ones and others are slack. A given year may be a slack year so far as actual receipts from commercial salvage assistance rendered is concerned, yet the same year may be a busy one on the basis of "in-house" operations or claims waived for diplomatic or other consideration. The purpose of reference (a), as stated in Senate Report 1158, 80th Congress is: "to authorize the Navy Department\*\*\*\*to provide adequate offshore salvage facilities in American waters and in areas where our vessels may operate". This requires ships and material and, of course, budgetary support. Reports of all salvage operations are vital to back up the Navy's budget requests for salvage funds and to gain Congressional support for new and modern salvage ships. A complete record of all salvage and rescue towing operations can prove of significant value whenever the legislation reflected by reference (a) is reviewed and revised. Salvage reports, whether they pertain to a ship, aircraft, landing craft, amphibious vehicle or even an anchor recovery, are also extremely useful for instructional purposes and in analyzing deficiencies in present salvage equipment, procedures, and organization.

b. Initial Report and SITREPS

(1) When assistance from naval sources has been dispatched or rendered to a ship or aircraft, an initial message report will be sent immediately to the Supervisor of Salvage stating the name of the vessel assisted, her position, owner and home port. (Naval messages for the Supervisor of Salvage should be addressed to INDMAN THREE with internal passing instruction "INDMAN THREE NOT ADDEE PASS TO SUPSALV." All such messages should also info BUSHIPS (now Commander, Naval Ship Systems Command).) Such messages or parts thereof may be omitted if the originator knows that the Supervisor of Salvage already has the required information.

(2) A salvage SITREP shall be sent at least daily stating the general situation, and reporting work already accomplished, in progress and anticipated as necessary to the success of the venture. The Supervisor of Salvage should be made an information addressee on all salvage SITREPS for both Navy and non-Navy salvage operations.

c. Post Salvage Report; BUSHIPS 4740-5 - All commercial aircraft-all merchant shipping-all foreign flag warships and foreign public vessels

Each salvage operation shall be followed by a detailed written report. When this report is routed through superiors in command, an advance copy shall be sent to the U. S. Navy Supervisor of Salvage, 99 Park Avenue, New York, New York 10016. The information, documents and other data furnished in the written report should include the following, whenever service is rendered to commercial aircraft or to merchant vessels, foreign warships or foreign public vessels:

(1) The source and substance of the request for naval assistance

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with a copy of any written request attached.

(2) A detailed chronological narrative account of the salvage operation giving, in addition to a description of what was done, all facts concerning any dangers to which the vessel would have been subjected if the services had not been rendered -- such as the position in which the casualty occurred and in which assistance was first rendered, the cause of the casualty, the extent to which the vessel was disabled, etc. Photographs and illustrative sketches should be included whenever possible.

(3) Copies of the deck and engine room logs for each assisting ship covering each day for a period sufficient to establish the time and point of departure and time and point of return to station or to the ship's basic course before diversion. (This is important since per diem is charged from time of diversion to time of resumption of original course.)

(4) Copies of all messages sent or received during the operation from receipt of orders to proceed or divert to assist until the salved vessel is delivered to her owners and the salving vessel returned to station or original course. (Messages which were addressed either action or info to the Supervisor of Salvage may be omitted provided a complete listing of DTG, originator, and subject line is given; all other messages should be enclosed.)

(5) Name of vessel assisted, her home port, principal dimensions and official number; include photos if possible.

(6) The name and address of the assisted vessel's owner, operator and managing agent.

(7) Fuel, lube oil, and water consumed by the assisting vessel(s) during time period covered in (3) above, and the cost thereof.

(8) The name, rank or rating and service or file number (or the license, Z number or book number, if civilian) of each officer and crew member of the salving vessel or vessels, indicating in addition each individual who boarded the salved vessel. Also a copy of commendatory or disciplinary masts, if any, awarded by the Commanding Officer for acts performed in the course of the salvage operations.

(9) The individual daily pay of each officer and crew member listed in (8) and the collective total cost of their subsistence. (Include military or civilian personnel on TAD or supernumerary to crew.)

(10) Materials lost, damaged or expended with stock numbers, description and replacement cost.

(11) Any special equipment used such as pumps, compressors, welding equipment, beach gear, etc. with notation showing the period of such use. This should include gear carried in the on-board allowance or portable salvage machinery as well as gear obtained from other sources.



(12) A statement of the number of dives and the general nature thereof.

(13) Records, including shipping marks, of any cargo removed incident to salvage explaining whether the cargo was removed to save the cargo or as a step in refloating the hull. Include photos if possible.

(14) Information on the presence or absence of uninsured U. S. Government-owned cargo carried by the assisted vessel and the nature, approximate tonnage and/or value thereof, and the agency or governmental department owning the property.

(15) A clear explanation of any circumstances under which personnel and equipment of the Navy were employed with or in place of the Coast Guard in Air/Sea Rescue Operations. (Include a description of the services so performed.)

(16) Recommendations of the endorsing authorities and any other information which will facilitate decision as to whether charges should be waived in a particular case.

d. Post Salvage Report - U. S. Navy Ships (including USNS) and Aircraft

Since there will be no claims in the case of salvage work performed on U. S. naval ships and aircraft the salvage report may be abbreviated. Items (1), (2), (5), (10)-(12) and (15) only are required. (Copies of all messages need not be included, however, significant ones should be accurately referenced.)

e. Post Salvage Report - U. S. Public Vessels and Aircraft (other than Navy)

In the case of salvage work performed on U. S. public vessels or aircraft for other government departments and agencies (including the CAB), the salvage report may also be abbreviated. All items in paragraph c. above should be included except items (3), (8), (9) and (14) which may be omitted.

f. In general, post salvage reports should not include critique or recommendations concerning salvage equipment or procedures. Such reports are frequently used in settlement negotiations or in litigation where commercial interests are involved. It is, therefore, preferred that any comments or recommendations be made the subject of separate correspondence for Navy use only especially when of a critical nature.

6. a. Vessels Carrying Government-Owned Cargo.

With reference to the uninsured Government-owned cargo mentioned in 5.c.(14) above, certain marine casualties in past years have resulted in the unnecessary loss of substantial amounts of Government-owned cargo because of a hesitancy on the part of certain shipowners to call for Navy

salvage assistance. These seemingly dilatory tactics are probably attributable to the shipowners' wishful thinking that the peril might subside and payment of per diem charges (which normally include running time and standing by time as well as actual working days on the salvage operation) might be avoided. In order to save strategic military cargo from possible loss, the Navy's billing procedures for salvage services have been modified in cases where substantial amounts of Government-owned cargo are laden on board a carrying vessel. If the vessel's owners act with reasonable promptness in requesting Navy salvage assistance, the per diem charges will be completely waived in the following circumstances: where the distressed vessel extricates herself (with or without the assistance of private tugs) before Navy assistance reaches the scene; where the vessel and cargo become a total loss before Navy assistance arrives and, finally, where Navy salvage assistance has actually reached the scene and is standing by but unable to render effective aid because of heavy weather or other unusual circumstances -- and the distressed vessel later founders or becomes a total loss. This means, in effect, that the running time from the place of diversion of the naval craft to go to the assistance of the vessel in distress and her running time in returning to the position of departure (and even standing by time in some cases) will not be charged to the owners or underwriters. If a private vessel carrying substantial amounts of Government cargo is in distress in an area where the Navy alone maintains adequate salvage facilities, the operational command concerned should immediately inform her master or owners of this special modification in Navy billing procedures to encourage a prompt request for salvage assistance.

b. General Average When Vessels Carry Government-Owned Cargo.

Contribution in general average is an ancient and well established principle of maritime law. In essence, where a ship and her cargo are in imminent danger and a portion of the venture is deliberately sacrificed to preserve the remainder, the owner of the sacrificed part is entitled to pro-rata reimbursement from the owners of the saved portions. To illustrate, if a deck cargo of lumber were thrown overboard to preserve a ship in distress, the shipowner and the owners of the cargo saved by this act would be required to contribute in "general average" so that the entire loss would not fall upon the owner of the jettisoned lumber. How much each interest would contribute would be calculated by general average adjusters in a detailed document known as a General Average Statement. General average losses are not limited to cargo. A ship may sacrifice herself to save cargo by deliberately running aground in which case the shipowner would be entitled to contribution from the owners of the saved cargo. Expenses incurred in proceeding to an unscheduled port of refuge for necessary repairs would be another example of a general average loss as would the costs incurred in a successful salvage operation. In theory, therefore, if a merchant ship carrying mixed Government and commercial cargo were saved by the Navy, the average adjusters would call upon the Government to contribute its share of the general average fund even though the Government cargo was uninsured and the Government was, in fact, the salvage claimant. In a case such as this, the Navy would waive its salvage claim against the Government cargo and collect only that portion of

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the per diem charges attributable to the share of commercial interests. This would obviate the futile gesture of the Government contributing in general average to pay its own salvage claim.


7. Reports of Damage Incurred to or by U. S. Naval Vessels.

a. When, in the course of a salvage operation, an assisting naval vessel sustains damage without the fault of any third party, such incident should be fully described in the salvage report and the resulting damage examined and reported in detail by divers or other examining personnel. Examples of such damage would be heavy weather damage to the vessel, her tackle or personnel; bottom, propeller or rudder damage caused while approaching the distressed vessel in order to pass towline or beach gear wire. Such damage should be reported immediately to the assisting vessel's operational commander so that arrangements may be made for joint survey at the assisting vessel's next port of call to ascertain the extent of the damage and the reasonable method and cost of repairing same (reference (e) section 1205). A copy of the naval shipyard's arrival inspection report or surveyor's field notes and/or report should be forwarded with the salvage report, if available at the time. If the survey report is not immediately available, the fact that the survey was held should be noted in the salvage report and the survey report forwarded later. The cost of repairing such damage is considered a part of the Navy's cost in rendering assistance and therefore recoverable from the assisted vessel.

b. Whenever the assisted vessel, her personnel or any other third party causes damage to an assisting vessel, or whenever the assisting naval vessel or her personnel cause damage to the assisted vessel or personal injury to her crew, there exists the possibility of a claim. All cases of damage and/or personal injury should be reported to the Judge Advocate General (admiralty division) and processed as required by reference (e). The Supervisor of Salvage should be made an information addressee on these reports and furnished with a copy of same as well as of all survey reports describing vessel damage. Such incidents should also be mentioned in the Salvage Report.

8. If any unique or unusual situation should arise not covered by this instruction, addressees should immediately communicate with the Supervisor of Salvage by message or telephone.

9. Report Control Symbol. Report control symbol 4740-5 has been assigned the reporting requirements of this instruction.

  
W. F. SEARLE, JR.  
By direction

NAVSHIPSINST 4740.4A  
Ser OOC-531  
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STOCKED AT:  
Supply & Fiscal Department ,  
Code 514.32, Naval Station,  
Washington, D. C. 20390

ENCLOSURE (1)

Vessel Rates Per Day of 24 Hours or Part Thereof - Effective 15 April 1961

Salvage Vessel or Fleet Tug (3000 H.P.)	\$3600.00
Ocean Going Tug (1000 - 2200 H.P.)	2100.00
Harbor Tug of 600 H.P. or over	1000.00
Harbor Tug under 600 H.P.	700.00

The above per diem rates apply worldwide and are to pay the Navy for the use of its vessel, operating crew and towing hawser. If, as in the case of a stranding, special salvage equipment such as beach gear, pumps, compressors, etc., is required, then a per diem charge is also made for the use of that equipment. In addition, repair materials consumed and equipment lost or destroyed are billed at replacement cost.

When used as the basis for billing, the per diem charges are normally made for the total elapsed time spent by the Navy vessel performing the service from the moment she leaves her berth, or is diverted from her previous course to the time she returns to her berth or resumes her prior voyage at the approximate point of diversion. The charges are independent of the values involved or the ultimate success or failure of the salvage operations.

An exception to the above method of calculating per diem is made if the commercial vessel carries a substantial amount of Government-owned uninsured cargo and if her distress occurs in areas such as the mid-Pacific where the Navy alone maintains facilities capable of conducting major salvage operations. Under these conditions, if Navy assistance is promptly requested, then no charge is made unless the Navy vessel actually reaches and helps the stricken vessel before she is either saved or she and her cargo are lost.

Submission of Navy salvage claims on a per diem basis is solely a matter of administrative convenience and policy. That policy is not a waiver nor surrender of the Navy's legal right to claim on a salvage bonus basis in any individual case. If per diem billing is rendered then it is submitted on the express condition that it be promptly paid in full and until the Navy's receipt of such payment all salvage rights are reserved including the right to withdraw the per diem billing without notice and present claim on a salvage bonus basis.

The statutory authority of the Secretary of the Navy to provide salvage facilities for private vessels and to administratively settle claims arising from such activity appears in 10 United States Code ss 7361 et seq. The U. S. Navy Supervisor of Salvage's authority to act as the Secretary's designee in these matters appears in 32 Code of Federal Regulations Part 754.1.

This authority granted to Navy does not obligate it either to maintain salvage facilities in excess of its own needs or to render salvage

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ENCLOSURE (1) (Contd)

assistance on all occasions. The policy of the Navy, however, is to assist in the salvage of private commercial vessels when such assistance is requested and where adequate privately owned salvage facilities do not exist or are not available.

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ENCLOSURE (2)

FORM OF CERTIFICATE OF DELIVERY

Port of Safety

\_\_\_\_\_  
(Date)

Commander U. S. Naval Task Unit 73.4.1  
Port of Safety

This is to certify that the \_\_\_\_\_

American Motor Vessel

NEVERSINK

has been refloated from \_\_\_\_\_ her stranded position

\_\_\_\_\_ on Sandy Beach, Paradise Isle

\_\_\_\_\_ and delivered to her

Master at \_\_\_\_\_ Port of Safety alongside Pier "A"

by the U.S.S. SALVAGER. Receipt of said  
vessel and her cargo is hereby acknowledged on behalf of their respec-  
tive Owners and/or Underwriters.

By \_\_\_\_\_

\_\_\_\_\_  
(Title)

Witness: