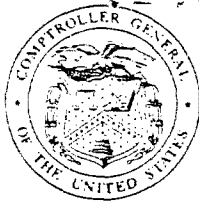


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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20549

FILE: B-195140

DATE: June 4, 1980

MATTER OF: Transportation of household effects
prior to issuance of orders

- DIGEST: 1. Circumstances where members' permanent change-of-station orders are not timely issued when a ship is scheduled for overhaul because of delay in determining the overhaul port due to Government contract bidding requirements may be considered unusual circumstances incident to military operations. Therefore, regulations may be amended to authorize transportation of household effects in such cases upon a statement of intent to change the ship's home port, but prior to issuance of orders.
2. Where members' permanent change-of-station orders are not timely issued when a ship is scheduled for overhaul and the regulations are amended to permit shipment of household effects before orders are issued, regulations may be further amended to authorize the return shipment of household effects if the ship overhaul is cancelled.

This case involves [authority to ship ^{Military} members' household goods without issuance of orders] because of an unusual situation which arises when Navy ships are scheduled for overhaul but the overhaul port is not known until shortly before the scheduled date of the overhaul.

Three issues are presented. First, may the Joint Travel Regulations be amended to authorize the transportation of household goods at Government expense of members of the uniformed services based on a statement of intent to change a ship's home port but prior to issuance of permanent change-of-station (PCS) orders where the ship is scheduled for overhaul and the PCS orders cannot be timely issued. Second, if the regulations may be amended to authorize shipment of household goods in advance of issuance of orders in the circumstances described above, may the regulations also be amended to provide that the goods may be returned to

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B-195140

the member's old or a new local residence at Government expense in case the scheduled overhaul of a vessel is cancelled and the home port change is revoked after the household goods have been picked up and placed in storage-in-transit pending shipment. And, third, if the regulations may not be amended to provide for the return of the household goods in the circumstances described in the second question, may the regulations be amended to provide that an advance shipment of household effects is authorized under the circumstances described in the first question, provided that the member concerned signs a written agreement to pay any of the costs incurred in connection with the shipment of household effects in the event the scheduled overhaul is cancelled.

The Assistant Secretary of the Navy (Manpower, Reserve Affairs and Logistics) requested an advance decision on these issues. The matter was forwarded here through the Per Diem, Travel and Transportation Allowance Committee (PDTATAC Control No. 1358).

The Assistant Secretary refers to a problem that has arisen in connection with paragraph M8017, Volume 1, Joint Travel Regulations (1 JTR), and our ruling in 52 Comp. Gen. 769 (1973).

Paragraph M8017 provides that the transportation of household goods at Government expense is authorized prior to the issuance of PCS orders provided that the request for such shipment is supported by:

1. a statement from the order-issuing authority, or his designated representative, that the member was advised prior to the issuance of such orders that they would be issued;

2. a written agreement by the member to pay any additional costs incurred for shipment to another point required because the new permanent duty station named in the orders is different from that named in the statement prescribed in item 1; and

B-195140

3. a written agreement to remit the entire cost of shipment if PCS orders are not subsequently issued to authorize shipment.

Paragraph M8017 further provides that the length of time prior to the issuance of the PCS orders during which a member may be advised that his orders will be issued may not exceed the relatively short period between the time when a determination is made to order the member to make a PCS and the date on which the orders are actually issued. General information that may be furnished the member concerning the issuance of orders before the determination is made to actually issue the orders, such as time of eventual release from active duty, time of expiration of term of service, date of eligibility for retirement, date of expected rotation from overseas duty, etc., may not be considered as advice that the orders are to be issued. This paragraph is based on our ruling in 52 Comp. Gen. 769.

A problem has arisen in connection with the referenced paragraph concerning the shipment of household goods in advance of orders for members assigned to Navy vessels preparing to enter overhaul. Since a vessel usually spends 9 months to a year or more in an overhaul port, the Navy changes the home port of the vessel being overhauled from wherever it is located prior to overhaul to the overhaul port so that families and household goods can be shipped at Government expense to the new location. However, contract bidding procedures for overhauling Navy vessels required by law often do not permit timely identification of overhaul sites. This has resulted in the promulgation of home port change messages and certificates as late as 2 weeks prior to the commencement of the overhaul. Thus, while members and transportation officers may be alerted to a forthcoming move of a vessel which will take place on a specific date, Government bills of lading cannot be issued until the actual overhaul port is known and PCS orders and home port change certificates have been issued. Without a Government bill of lading, firm arrangements cannot be made with household goods carriers to pack and pick up household goods for storage and/or shipment. This means

B-195140

that the members concerned are not afforded reasonable time to make arrangements for the relocation of their households and families. It is the view of the Navy that this situation results in an inequity for the members assigned to such a vessel, since members ordered on a normal PCS usually receive their orders at least 90 days prior to the effective date of their move and consequently have ample time to make arrangements for the relocation of their families and household goods.

The Navy has proposed a change to the JTR which would authorize the shipment of household goods in advance of orders for eligible members assigned to ships preparing to enter overhaul based on a statement of intent to change the home port of a vessel to an undetermined overhaul site on a specified date. This statement of intent would be issued only when it is known that less than 90 days will exist between the time of determination of a specific overhaul site and the actual departure of the vessel to such site.

Section 406(e) of title 37, United States Code (1976), provides that when orders directing a PCS for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of his dependents, baggage, and household effects, the Secretaries concerned may authorize the movement of the dependents, baggage, and household effects and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, in cases involving unusual or emergency circumstances including those in which the member is serving on permanent duty at stations outside the United States, in Hawaii or Alaska, or on sea duty.

In discussing the legislative history of 37 U.S.C. 406(e) we stated in 42 Comp. Gen. 159 at 161 (1965) that:

"* * * While the emphasis of the statutory provision is upon the advance return of dependents, the legislative history of the law indicates an intent to provide authority for movement of dependents and household

B-195140

effects between points in the United States incident to unusual or emergency situations when the member is on sea duty. In S. Rept. No. 733, on H.R. 5007, 81st Cong., 1st sess. (which became the Career Compensation Act of 1949), on page 22, the Senate Committee on Armed Services, referring to section 303(c) stated in pertinent part as follows:

'This subsection also includes provisions for the transportation of dependents even though there is involved no change of station in order that dependents may travel at Government expense between points in the United States where the service member is on sea duty or on duty outside the United States at a post of duty where dependents are not permitted to accompany him. * * * [Italics supplied.]'

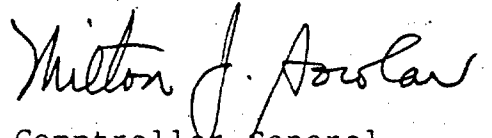
Thus, Congress has recognized that members serving on sea duty occupy a position not unlike those members who are assigned to duty stations overseas. In 49 Comp. Gen. 821 at 824 (1970) we stated:

"* * * it is our opinion that 37 U.S.C. 406(e) provides authority for the movement of dependents and household effects from place to place in the United States in unusual or emergency circumstances incident to some military operation or requirement * * *."

In the case of members assigned to vessels preparing to enter a port for overhaul, the contract bidding procedures established by the Government for overhauling Navy vessels do not always permit timely identification of the overhaul site. In those circumstances we believe to require that orders be issued before household effects could be transported at Government expense could result in undue hardship to the members and their dependents and may therefore be regarded as unusual circumstances incident to military operations, as contemplated by section 406(e). On that basis we have no objection to

B-195140

amending the regulations as suggested by the Navy to permit movement of household effects based upon a statement of intent to change a vessel's home port incident to overhaul but prior to issuing PCS orders. Similarly, the regulations may be amended to provide for return of the household goods from storage if the overhaul is cancelled. Accordingly, the first and second questions are answered yes, and no answer is required to the third question.



For the Comptroller General
of the United States