

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25



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The Honorable

The Secretary of Commerce

My dear Mr. Secretary:

Reference is made to letter dated September 19, 1951, from the Acting Secretary of Commerce, in which a decision is requested as to whether, and as of what date, receipts from charter hire may be credited to the Vessel Operations Revolving Fund established by the Third Supplemental Appropriation Act, 1951, Public Law 45, 82d Congress, approved June 2, 1951, ^{65 Stat. 52} The pertinent provisions of the statute, as quoted in your letter, are as follows:

"For working capital for the 'Vessel Operations Revolving Fund', which is hereby created for the purpose of carrying out vessel operating functions of the Secretary of Commerce, including charter, operation, maintenance, repair, reconditioning, and betterment of merchant vessels under the jurisdiction of the Secretary of Commerce, \$80,000,000, to remain available until expended.

"Notwithstanding any other provision of law, rates for shipping services rendered under said Fund shall be prescribed by the Secretary of Commerce and the Fund shall be credited with all receipts from vessel operating activities conducted thereunder; ** Provided further, That notwithstanding any other provisions of law, the unexpended balances of any working funds or of allocation accounts established, subsequent to January 1, 1951, for the activities provided for under this appropriation, together with receipts heretofore and hereafter received from such activities, may be transferred to and consolidated with this Fund, which shall be available for the purposes of such working funds or allocation accounts."

Under the foregoing provisions of law the revolving fund is established "for the purpose of carrying out vessel operating functions of

the Secretary of Commerce, including charter * * * of merchant vessels under the jurisdiction of the Secretary of Commerce." Also, it is provided that notwithstanding any other provisions of law "the fund shall be credited with all receipts from vessel operating activities conducted thereunder" and that "the unexpended balances of any working funds or of allocation accounts established, subsequent to January 1, 1951, for the activities provided for under this appropriation, together with receipts heretofore and hereafter received from such activities, may be transferred to and consolidated with this fund."

The "vessel operating functions" referred to in the Third Supplemental Appropriation Act, 1951, appear to be those authorized by Executive Order No. 10219 dated February 28, 1951, section 201 of which is, in part, as follows:

"The Secretary of Commerce shall in utilizing the functions vested in him by law, including those under the Defense Production Act of 1950, * * * (c) formulate and, as necessary, undertake the execution of plans and programs for the reactivation of vessels from the national-defense reserve fleet, the requisition, purchase, charter, operation, maintenance, and repair of ocean-going merchant vessels, and the administration of war-risk insurance."

The foregoing conclusion is supported by an excerpt from the justification for the revolving fund--page 205 of the Hearings before the Subcommittee of the Committee on Appropriations House of Representatives on the Third Supplemental Appropriation Bill for 1951--as follows:

"The National Shipping Authority was established within the Maritime Administration on March 15, 1951, pursuant to authority granted the Secretary of Commerce by Executive Order No. 10219, dated February 28, 1951, in order to provide the most effective use of the American merchant marine in the present emergency.

"To effectuate the authority delegated to the Director, National Shipping Authority, a vessel operations revolving fund appropriation of \$25,000,000 ~~reduced to \$20,000,000~~ is requested herein, which would finance the vessel repair, activation, and initial operating and related expenses until such time as necessary revenues accrue to the revolving fund. * * *

Also, on page 25 of House report No. 298, 82d Congress, in explaining the purpose for which the establishment of the revolving fund was sought, it is stated:

"The increased demand for the shipment of supplies, materials and other items resulting from national defense and other programs has resulted in a need for reestablishment of a vessel operations function substantially similar to that carried on by the War Shipping Administration during World War II. The proposed program involves the operation of additional vessels for the Government by established private operators acting as general agent of the administration. Funds are also required for the activation and repair of approximately 100 vessels in the reserve fleet. After the program is in operation it will, in general, be self supporting. However, it is essential that funds be provided as initial working capital. * * *

It will be noted that the provision in the appropriation act for crediting the funds with receipts of vessel operating activities applies to receipts from vessel operating activities conducted thereunder. Thus the Congressional intent would appear to be that receipts from charters properly may be credited to the fund only if the chartered vessel is being operated in an activity conducted under the program for the financing of which the fund was established, as distinguished from a charter not connected with such activities, such as the charter of the so-called "Good Neighbor Fleet" operating to South America.

With respect to the date as of which the charter hire receipts may be credited to the fund, it is noted that in the memorandum dated June 4, 1951, from the General Counsel, Maritime Administration, to the Budget Officer, Maritime Administration, a copy of which was

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forwarded with your letter, it is proposed to deposit in the revolving fund all basic charter hire accruing on or after July 1, 1951, (the beginning of the first calendar month following approval of the act), and all additional charter hire accruing on and after January 1, 1952 (the beginning of the first calendar year after the passage of the act.) In view of the permissive language of the act, to the effect that the receipts heretofore and hereafter received from activities provided for under the appropriation "may be transferred to and consolidated with this fund" and since it is indicated that it would be more desirable to do so, no objection will be raised by this Office to the depositing of the charter hire herein contemplated, on the basis proposed.

Sincerely yours,

Henry C. Warren
 Comptroller General
 of the United States