

The Honorable Ted Cruz, Chairman
The Honorable Maria Cantwell, Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate
Washington, DC 20510

September 2, 2026

The Honorable Sam Graves, Chairman
The Honorable Rick Larsen, Ranking Member
Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Re: Foreign Construction of Federally and State-Funded Research Vessels Under an Expanding Oceanographic Research Vessel Exemption — Request for Committee Review

Dear Chairman Cruz, Ranking Member Cantwell, Chairman Graves, and Ranking Member Larsen:

We are writing on behalf of U.S. small shipyards regarding a procurement decision by the Scripps Institution of Oceanography at the University of California San Diego. Scripps recently completed RFP #2601GO for a Coastal Class Research Vessel intended for domestic operation. Qualified domestic shipyards submitted proposals and committed substantial time, technical resources, and estimating effort to the solicitation. According to published reports, Scripps has awarded the construction contract to ASENNAV, a shipyard in Chile, while relying on Oceanographic Research Vessel (ORV) treatment to permit foreign construction and future operation of the vessel.

The issue is not simply the award of one vessel; it is the precedent it sets. We have seen what happens when a vessel is designated one way at procurement and operated another way once it is in service. The Coast Guard's own Marine Board of Investigation, in its 2025 report on the loss of the submersible TITAN, found that an operator created and exploited regulatory confusion around ORV status, and recommended that the Coast Guard discontinue ORV treatment for submersibles and review and strengthen its ORV guidance for certain surface vessels. The broader concern is whether the ORV exemption is being interpreted beyond its intended scope in a publicly funded procurement where capable U.S. shipyards demonstrated both interest and ability to perform the work domestically. If this approach becomes a repeatable procurement model, it will further erode the domestic small-shipyard industrial base and undermine the very maritime policies Congress and the Administration are working to strengthen.

American shipyards cannot warehouse their workforce between contracts. Welders, fabricators, electricians, designers, planners, and marine engineers are not interchangeable resources that can be paused and restarted without consequence. When publicly funded vessel work is sent offshore despite domestic competition, the impact is not limited to a single lost contract. Skills erode, apprenticeships lapse, supplier relationships atrophy, and production capacity built over years does not restart on command. Applying the ORV exemption in that context should be reviewed carefully before it becomes a procurement pathway that bypasses domestic construction capacity.

The legal concern is focused on the scope and application of ORV treatment. ORV status may be appropriate for vessels used exclusively for qualifying scientific research or instruction. That status should not be treated as a blanket procurement shield for foreign construction when the foreseeable use of the vessel may extend beyond traditional academic research missions. Nor should it be interpreted in a manner that effectively displaces the Passenger Vessel Services Act (PVSA), 46 U.S.C. § 55103, which restricts the transportation of passengers between U.S. coastwise points unless a vessel is U.S.-owned and properly coastwise-qualified. Whether a particular voyage qualifies for ORV treatment is necessarily fact specific and should depend on the actual purpose, passengers, sponsors, and operating profile of that voyage. Customs and Border Protection has drawn

this line directly. In ruling HQ H323382 (June 10, 2022), CBP held that a non-coastwise-qualified vessel claiming ORV treatment must be used solely for oceanographic research, that any combination of commercial activity with that research transforms otherwise permissible operations into coastwise violations, and that the passenger exemption reaches only the crew, the scientists actively engaged in the research, and the vessel's owner and immediate household. Persons carried beyond those categories are passengers, and a foreign-built vessel cannot lawfully carry them between U.S. points.

The procurement documents themselves suggest a vessel designed for two missions, not one. The contract technical specifications set the overnight complement at 20 (8 crew and 12 scientists) and provide permanent berthing for exactly that number. The same specifications set a day complement of 60. A vessel built to berth 12 scientists for research, yet sized to carry 60 on day trips, is carrying 40 people beyond its required science/research complement. That disparity raises a reasonable question about the vessel's anticipated operating profile, one that warrants examination before the exemption is relied upon. Scripps' existing ship operations also publicly reference ship usage rates and vessel policies that contemplate use by outside parties and external sponsors. Through its Scripps Business initiative, the institution markets its research capabilities, facilities, and marine assets to government, private industry, and commercial partners, with public materials describing roughly \$150 million annually in sponsored research from those partnerships.

Modern marine research often overlaps with commercially valuable services. Hydrographic surveying, geophysical mapping, offshore wind site characterization, subsea technology testing, environmental assessments, marine robotics demonstrations, cable-route investigations, and industry-sponsored technology validation can all resemble research activities while also serving private commercial objectives. The line CBP draws is not about the subject of the work, but about who is carried and on what terms. Under CBP's regulations, a passenger is anyone aboard who is not connected with the operation, navigation, ownership, or business of the vessel (19 C.F.R. § 4.50(b)), and CBP has long applied a "directly and substantially related" test to decide who clears that bar. A scientist running the sampling is squarely within that test; a sponsor, donor, alumni, or commercial guest along to observe would present a materially different case. When a publicly funded institution charters a vessel to a private party for a day rate, provides its own master, crew, fuel, and provisions, and carries that party's personnel, the owner has not surrendered control. That arrangement carries the hallmarks of a crewed, for-hire carriage that a foreign-built vessel would not be permitted to perform, regardless of how the voyage is labeled. The same science could be performed for that charterer by any number of qualified, coastwise-compliant U.S. vessels.

The procurement record should not assume that all future operations will remain confined to traditional academic research missions when the institution publicly promotes a broader operating model involving government, academic, and industry users. Where it does not, the basis for ORV treatment narrows and the PVSA governs.

This concern extends beyond Scripps. If publicly funded research institutions can routinely procure foreign-built vessels under broadly applied ORV treatment even when qualified domestic yards compete, the precedent will affect the entire coastal and regional research-vessel market. U.S. yards have invested in research, survey, passenger, and public-sector vessel construction. They have developed skilled labor, design capability, equipment, and supply chains to serve precisely this type of domestic maritime work. A broad interpretation of the ORV exemption would weaken those investments and reduce future domestic competition. This is not a settled question. CBP's extension of ORV treatment to foreign-flagged vessels, first articulated in ruling HQ H205655, has been formally challenged as contrary to the ORV Act and the Jones Act and is the subject of ongoing federal litigation, the ORV Act's own legislative history confirming that Congress created the category to relieve U.S.-flagged research vessels of passenger-safety burdens, not to open a foreign-construction pathway.

The policy conflict is especially clear in light of current national maritime priorities. Congress has introduced the Shipbuilding and Harbor Infrastructure for Prosperity and Security for America Act (S. 1541 / H.R. 3151), reflecting bipartisan recognition that rebuilding U.S. shipbuilding capacity, strengthening the domestic maritime

workforce, and expanding industrial capability are national priorities. The Administration's Maritime Action Plan reinforces the same objectives by calling for procurement and policy measures that support long-term demand for U.S.-built ships, U.S. shipyards, and American mariners. Allowing research-vessel exemptions to expand beyond their intended scope works against those goals.

The Scripps procurement is not the concern in isolation; it is a current, concrete illustration of a gap in how the ORV exemption is being applied. **We respectfully request that the Committees examine how ORV treatment is being extended to foreign-built vessels in federally and state-funded academic procurements and consider whether updated agency guidance or legislative clarification is needed to ensure the exemption is not used to bypass the domestic shipyards Congress and this Administration are working to strengthen.** Congress does not need to wait for a violation to occur; the TITAN investigation already found that ORV designation can be, and has been, exploited once a vessel is in service, and recommended that the Coast Guard tighten how that designation is reviewed and applied. We ask that the Committees direct the same scrutiny upstream, at the point of procurement, before that pattern repeats. Nothing in this letter is intended to allege that Scripps has committed a present violation of the coastwise laws. Our concern is whether the anticipated operating profile of the proposed vessel is consistent with the scope of the ORV exemption, and whether current guidance adequately protects domestic shipbuilding requirements.

The recurring policy enforcement failure is a matter of timing. Today, exemptions are evaluated on a vessel's stated designation rather than its foreseeable use. Where institutions actively market their vessels for government, industry, technology development, testing, sponsored research, and other third-party activities, and build them with the capacity to carry far more people than the research mission requires, the practical application of ORV treatment deserves scrutiny to ensure continued compliance with U.S. coastwise laws and congressional intent. That operating profile has to be weighed before the exemption is granted, not after the vessel is in the water.

We compete with one another in many respects. On this issue, we agree: domestic vessel procurements should provide a fair opportunity for qualified American shipyards. We are not seeking special treatment. We are asking that the statutory framework be applied in a manner that supports domestic shipbuilding capacity, protects the maritime workforce, and preserves a fair playing field for U.S. yards. We welcome the opportunity to discuss this matter further.

Respectfully submitted,

All American Marine (Bellingham, WA)

Signed by:

Ron Wille

88E07FC9E054486...

BRIX Marine (Port Angeles, WA)

Signed by:

RK

895B0C8A01F0405...

Gladding-Hearn Shipbuilding (Somerset, MA)

Signed by:

John

2E24268BD07480...

Nichols Brothers Boat Builders (Freeland, WA)

Signed by:

Gavin Higgins

2193BB9E2C2748A...

Rozema Boat Works (Mount Vernon, WA)

Signed by:

Dirk Rozema

F93CCBBFB1B484...

Thoma-Sea (Houma, LA)

Signed by:

Paul W Purvis

49BE561B09E4A9...

Breaux Brothers Enterprises (Loreauville, LA)

Signed by:

Vance Breaux

88B008E1FC474C0...

Derecktor Shipyards (Mamaroneck, NY)

Signed by:

ED

702A2A5CCE4941F...

JT Marine (Vancouver, WA)

Signed by:

JT Marine

4E25E7AB90DA485...

Mavrik Marine (La Conner, WA)

DocuSigned by:

Bailey Shewchuk

CDF23EFC66C0470...

St. Johns Ship Building (Palatka, FL)

Signed by:

Joseph J Kella

81F77E2183C745A...

Sources Referenced

Nick Blenkey, "ASENAV Wins Contract to Build New Scripps Coastal Research Vessel," Marine Log, August 3, 2026, <https://www.marinelog.com/news/asenav-wins-contract-to-build-new-scripps-coastal-research-vessel/> (Scripps Associate Director Dr. Bruce Appelgate confirms selection of ASENAV, Valdivia, Chile, to construct the RFP #2601GO replacement for R/V Robert Gordon Sproul).

Scripps Institution of Oceanography, RFP #2601GO, Exhibit A – Contract Technical Specifications (Feb. 4, 2026), Table 0-4 (Day Complement: 60; Overnight Complement: 20; Crew: 8; Scientists: 12).

Scripps Institution of Oceanography, Ship Usage Rates, <https://scripps.ucsd.edu/ships/planning/ship-rates>; Use of Vessels or Boats Policy (July 17, 2022), https://scripps.ucsd.edu/system/files/2022-07/Use%20of%20vessels%20or%20boats_2022-07-17_ad.pdf

Shipbuilding and Harbor Infrastructure for Prosperity and Security for America Act, S. 1541 / H.R. 3151, 119th Cong. (2025).

U.S. Customs and Border Protection, Ruling HQ H323382, Coastwise Transportation; Oceanographic Research; 46 U.S.C. §§ 55102 and 55103 (June 10, 2022), rulings.cbp.gov/ruling/H323382

U.S. Coast Guard, Report of the Marine Board of Investigation into the Loss of the Submersible TITAN (released Aug. 5, 2025).

U.S. Customs and Border Protection, Ruling HQ H205655 (Mar. 20, 2012); *Radtke v. U.S. Bureau of Customs & Border Protection*, No. 1:17-cv-02412 (TSC) (D.D.C.), appeal docketed, No. 25-5403 (D.C. Cir. Nov. 14, 2025) (Offshore Marine Service Association and Shipbuilders Council of America among plaintiffs-appellants challenging the ORV and Jones Act determinations reflected in HQ H205655; appeal pending).

UC San Diego Today, "Scripps Oceanography Reaches \$150 Million Research Milestone" (July 18, 2012) (external sponsored-research funding exceeding \$150 million; approximately 85% of operating funds from federal and state agencies, industry, and private sources), https://today.ucsd.edu/story/scripps_oceanography_reaches_150_million_research_milestone

Executive Order 14269, Restoring America's Maritime Dominance (Apr. 9, 2025); America's Maritime Action Plan, White House (Feb. 13, 2026), <https://www.whitehouse.gov/maritimemight/>