

U.S. Department of  
Homeland Security

United States  
Coast Guard



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Policy Letter 24-01  
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From: M. R. Neeland, CAPT  
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To: Distribution

Subj: GUIDANCE FOR DETERMINING THE INSPECTION STATUS OF PUBLICLY  
OWNED OCEANOGRAPHIC RESEARCH VESSELS (ORV)

Ref: (a) Title 46 U.S. Code (U.S.C.) § 3301  
(b) Title 46 Code of Federal Regulations (CFR) § 2.01-7  
(c) 46 CFR subchapter U – Oceanographic Research Vessels  
(d) Marine Safety: Domestic Inspection Programs, COMDTINST M16000.71(series)

1. PURPOSE. The purpose of this Policy Letter establishes policy and guidance for the evaluation of publicly owned oceanographic research vessels (ORV) to determine whether they are subject to vessel inspection requirements in accordance with references (a) through (c). This Policy Letter will expire in two years, unless cancelled or suspended.<sup>1</sup>
2. DIRECTIVES AFFECTED. None
3. BACKGROUND.
  - a. Oceanographic research vessels are a distinct category under U.S. law, defined under 46 U.S.C. § 2101 as “a vessel that the Secretary finds is being employed only in instruction in oceanography or limnology, or both, or only in oceanographic or limnological research, including studies about the sea such as seismic, gravity meter, and magnetic exploration and other marine geophysical or geological surveys, atmospheric research, and biological research.”
  - b. Publicly owned ORVs are typically owned by U.S. Federal agencies such as the United States Navy Office of Naval Research, (ONR), the National Science Foundation (NSF), and the National Oceanic and Atmospheric Administration (NOAA) and are operated by state universities. The coordinated use of these ORVs is generally managed by the University-National Oceanographic Laboratory System (UNOLS), an organization of

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<sup>1</sup> CG-CVC will monitor and evaluate the effectiveness of this policy letter and determine whether to adopt in the Mission Management System (MMS), extend the deadline, or sunset the provisions herein.

academic institutions and National Laboratories involved in oceanographic research and the scheduling of scientific cruises aboard these research vessels.

- c. The fleet coordinated under UNOLS consists of a wide variety of vessels that are owned and operated under complex ownership and contractual structures that can present difficulty in determining whether a specific vessel is exempt from Coast Guard inspection, certification, and international certificates required under conventions of the International Maritime Organization (IMO).

#### 4. DISCUSSION.

- a. A key consideration in the evaluation of a publicly owned ORVs is whether it meets the definition of “public vessel” under maritime law for the purposes of Coast Guard inspection. Per 46 U.S.C. § 2101, a public vessel is defined as a vessel that is (A) owned, or demise chartered, and operated by the United States Government<sup>2</sup> or a government of a foreign nation and (B) is not engaged in commercial service. It is important to note that the statutory language within 46 U.S.C. § 50503 states that oceanographic research vessels, as defined in 46 U.S.C. § 2101, are not engaged in “trade” or “commerce.” However, “commercial service” is defined as “any”<sup>3</sup> type of trade or business involving the transportation of goods or individuals, except service performed by a combatant vessel.”<sup>4</sup> This means that while an ORV may not be engaged in trade or commerce, it may still be engaged in “commercial service” for the purpose of inspections law.<sup>5</sup>

Essentially, a publicly owned ORV must generally meet three tests to be exempt from vessel inspection requirements as a public vessel: 1) the vessel must be owned by the U.S. Government, 2) the vessel must be operated by the U.S. Government, and 3) the vessel must not engage in commercial service. If any one of these three elements are missing and the vessel is over 300GT, it is subject to vessel inspection requirements pending any other significant factors.

- b. ORVs often sail through international waters and to foreign ports. Ensuring a particular vessel has the required IMO convention certificates prior to sailing foreign is critical to ensure such a vessel is not detained by a foreign Port State Control (PSC) authority. It is important to note that ORVs, including publicly owned ORVs, are not inherently exempt

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<sup>2</sup> Per 46 U.S.C. § 2109, 46 U.S.C. subtitle II does not apply to a “public vessel” of the United States. The definition of “public vessel” in 46 U.S.C. § 2101 includes vessels only owned or operated by the US government. Accordingly, the public vessel exemption in 46 U.S.C. § 2109 does not apply to state owned vessels or demise chartered by the government of an individual State or any instrumentality, including a public educational institution, belonging to a State.

<sup>3</sup> The plain meaning of the statutory text, encompassing *any* type of trade or business involving the transportation of goods or individuals indicates a wide scope of vessels included within the meaning of “commercial service.”

<sup>4</sup> 46 U.S.C. § 2101 (emphasis added). See H.R. REP. NO. 98-338, at 127 (1983) (“[W]herever the term ‘commercial service’ is used it is to include *all vessels* except those that are primarily used for combatant purposes. This is to make sure that vessels that are engaged in the transportation of goods or individuals are subject to the applicable maritime and environmental safety laws, even if they are sovereign controlled vessels.”) (emphasis added).

<sup>5</sup> In this context, “inspections laws” are codified in 46 U.S.C. Subtitle II, part B, chapters 31-49 whereas laws of the “Merchant Marine” and “coastwise trade laws” are found in 46 U.S.C. Subtitle V.

from PSC examination.<sup>6</sup> An owner or operator of an ORV with questions regarding diplomatic clearance while in a foreign port should contact the U.S. Department of State and/or the owning U.S. Federal agency, for determining whether such a clearance would be appropriate based on the circumstances and international law.

- c. Under the Coast Guard's policy framework, a "public vessel," which is not subject to mandatory inspection, may opt to voluntarily adhere to the standards and regulations that would otherwise be applicable. The Coast Guard may issue a voluntary COI or a Statement of Voluntary Compliance (SOVC) for international convention when requested to do so by the U.S. Federal agency owning the vessel. These requests may be made to the cognizant OCMI for COIs and the respective Authorized Class Society for SOVCs. However, in choosing to comply voluntarily, the vessel must meet all requirements and standards that would be applicable as if the vessel was indeed in commercial service to maintain a COI or SOVC. This means the vessel is expected to maintain the same levels of safety, operational capabilities, manning, crew qualifications, and other relevant aspects in accordance with U.S. law and regulations and international conventions.
  - d. Coast Guard credentialed mariners in all cases are considered operating under the authority of their license and are subject to manning and watchkeeping requirements, marine casualty reporting, mandatory drug and alcohol testing, and suspension and revocation.
5. ACTION. Officers in Charge, Marine Inspections (OCMI) and vessel owners, operators, and charterers should refer to this Policy Letter when determining the inspection status of an ORV or seeking voluntary compliance.
6. POLICY.
- a. The process to determine whether an ORV is subject to inspection begins when the OCMI receives a written application for Coast Guard inspection<sup>7</sup> from the vessel's owner or operator. As an inspection for certification is made pursuant to regulations promulgated under the vessel inspection laws of the U.S., the OCMI should regard the vessel as subject to inspection unless otherwise declared by the vessel owner or operator, or if the vessel is under 300 GT.<sup>8</sup>
  - b. If no other information is provided that reasonably declares the vessel as a public vessel, then a Coast Guard inspection for certification and all necessary reinspection and other necessary attendance and oversight should be completed in accordance with all relevant laws, regulations, Coast Guard policy, and international conventions, or be designated an ORV of under 300 GT.

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<sup>6</sup> See generally 74 SOLAS (20) I/1 for general SOLAS applicability and 74 SOLAS (20) I/3 for exceptions from general application (an ORV is not explicitly subject to exception from SOLAS applicability).

<sup>7</sup> 46 C.F.R. § 2.01-1.

<sup>8</sup> See 46 CFR part 3 and reference (d) § B.4.H for an uninspected ORV under 300 GT.

- c. If the ORV owner or operator declares the ORV is a public vessel and used for public purposes<sup>9</sup> but requests voluntary compliance, the OCMI should request from the vessel's owner or operator sufficient information to clearly illustrate the contractual conditions between the owning agency and the vessel's operator, which, in most cases, is an academic institution. The OCMI should then consult the servicing legal office for assistance in reviewing documentation in determining a vessel's public status.
  - d. If determination is made that the ORV is a public vessel and used for a public purpose, the ORV may still be inspected and certificated on a voluntary basis. In this case, the vessel must comply with all applicable regulations and requirements as if it were in commercial service to maintain a COI and SOVCs, as appropriate. The COI and all other Coast Guard documents and approvals will be issued as if the vessel was subject to inspection and international certificates will be issued in the form of SOVCs. The vessel will be subject to CG-835 deficiencies and Flag State detention in accordance with regulation and Coast Guard policy. The OCMI may revoke the COI or other approvals and certificates following normal procedures under law, regulation, and Coast Guard policy. The owner or operator of an ORV in public service may suspend all documents upon request to the OCMI.
  - e. An ORV in public service may also participate in the Alternate Compliance Program (ACP), provided that the vessel meets all requirements and standards that would be applicable as if it were in commercial service. The ORV must follow the procedures contained in 46 CFR part 8 and Navigation and Vessel Inspection Circular (NVIC) 2-95, Ch. 3.
  - f. Whether an ORV is subject to inspection or is in voluntary compliance, all exemptions, equivalencies, or other approvals must follow the statutory, regulatory, or policy provisions from which such an exemption, equivalency, or approval derives. In all cases, exemptions, equivalencies, or other approvals must be requested in writing to either the OCMI or the relevant office at Coast Guard Headquarters. Generally, there are no provisions for the Coast Guard to waive statutory or regulatory requirements.
  - g. If the OCMI determines the ORV to be in a status other than what is declared by the owner or operator, the OCMI must notify the owner or operator in writing and act appropriate to the vessel's status. This may include suspending future Coast Guard inspection for certification or, alternatively, requiring Coast Guard inspection depending on the circumstances of the case. The ORV owner or operator may appeal this determination following the provisions of 46 CFR § 1.03.
7. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. Environmental considerations were examined in the development of this policy letter and have been determined not to be applicable.
6. DISCLAIMER. This policy letter is neither a substitute for applicable legal requirements, nor a rule. It is not intended, nor does it impose legally binding requirements on any party.

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<sup>9</sup> See 46 CFR § 188.05(a)(4) (46 CFR subchapter U applies "to all U.S.-flag vessels indicated in Column 6 of Table 2.01-7(A) to the extent prescribed by applicable laws and the regulations in this subchapter, except . . . (4) any vessel with title vested in the United States and which is used for public purposes.").

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It represents the Coast Guard's current thinking on this topic and may assist industry, mariners, the public, and the Coast Guard, as well as other Federal and state regulators, in applying statutory and regulatory requirements. An alternative approach may be used for complying with these requirements if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach (you are not required to do so), you may contact the Coast Guard Office of Commercial Vessel Compliance (CG-CVC) which is responsible for implementing this guidance.

7. QUESTIONS. Questions concerning this policy letter and guidance should be directed to Office of Commercial Vessel Compliance, COMDT (CG-CVC), Flag State Control Division at [FlagStateControl@uscg.mil](mailto:FlagStateControl@uscg.mil). This policy letter and other vessel inspection policy documents are posted on the CG-CVC website at [CG-CVC Policy Letters \(uscg.mil\)](https://uscg.mil/CG-CVC/Policy-Letters).

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