

Welcome to the ADV Workgroup Meeting #2

October 10, 2023

AGENDA

1:00 - Welcome and introductions

1:10 - Roles, authorities, and jurisdiction

- Current state authorities
- U.S. Federal authorities
- Gaps and challenges

1:30 - ADV Workgroup Discussion

- Recommendations from the ADV Blue Ribbon Program Report
- Recommendations from stakeholders

2:45 - Community Input

2:55 - Next Steps & Adjourn @ 3 p.m.



Oregon's Abandoned and Derelict Vessel Workgroup

LEARN MORE

<https://www.oregon.gov/dsl/WW/Pages/ADVAC.aspx>

CONTACT US

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Photo Credit: Jacob Taylor

ADV Workgroup Schedule



The anticipated schedule of meetings for this effort is tentative:

- Meeting 2: October 10, 2023 (online)
- Meeting 3: October 24, 2023 (online)
- Meeting 4 November 7, 2023 (online)
- Meeting 5: November 21, 2023 (online)
- Meeting 6: December 5, 2023 (tent: hybrid)
- Meeting 7: December 19, 2023 (online)
- Meeting 8 - 11: Once per month January – April 2024

Meetings will be noticed one week in advance, and recordings will be made available.



ADV Workgroup Member Participation



Use the "Raise Hand" feature to speak:

- To raise your hand, click the reactions near the bottom of your screen and click "raise hand" or by pressing star 9 if you are on the phone.
- You will be called in the order in which hands are raised.
- Please keep your mic muted unless it is your turn to speak.

When it's your turn to speak:

- When your turn is coming up, the moderator will call on you to begin speaking.
- We ask that all participants be respectful of each other and agency representatives.

Community Involvement



ADV Workgroup meetings are open to community members to attend and stay connected to the discussion.

- ADV Workgroup meetings include limited time on the agenda for input from community members.
- Current meeting information and materials will be posted on the DSL website. Meetings will be noticed one week in advance, and recordings will be made available.
- In early 2024, DSL will open a comment period on the proposed ADV program framework, prior to bringing these efforts before the Land Board for a decision.

ADV Removal Update: F/V Tiffany



The F/V Tiffany vessel was successfully (and uneventfully) removed from the waterway yesterday (Oct. 9). Vessel deconstruction has been initiated and the project is expected to last around 23 more days. The Tiffany is a 200 ton ADV with extremely high levels of PCB and lead being pulled from the Columbia River at Hyak Maritime in Astoria.



ADV Removal Update: F/V Tiffany



ADV Workgroup member Aaron Harrington, Director of Casualty Response and PNW Business Manager, for Global Diving and Salvage and Willie Hayward, Salvage Specialist. Behind them is the FV Tiffany.



Roles, Authorities, and Jurisdiction



Photo Credit: Jacob Taylor

Department of State Lands

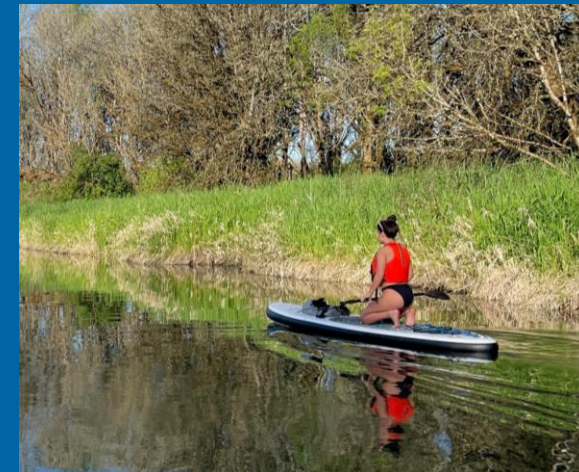
Waterway management



Oregon's Publicly Owned Waterways

Upon becoming a state, Oregon acquired ownership of all submerged and submersible land underlying title-navigable waterways, waterways affected by tidal action, and the Territorial Sea. Oregon also owns the submerged and submersible land underlying meandered lakes within its borders.

Oregon Constitution, ORS 273 & ORS 274



Department of State Lands

Waterway management



Agency administrative rule governs most of the day-to-day uses of state-owned waterways.

These lands are open for the public trust uses of fishing, navigation, and commerce.

All uses of, and structures occupying state-owned submerged and submersible land (not otherwise exempt by rules or federal actions), **require prior written authorization** from the Department.

Since 2015, we're able to invest 20% (limited to \$200,000) of waterway authorization revenue back into improving these lands through the Submerged Lands Enhancement Fund (SLEF) grant.

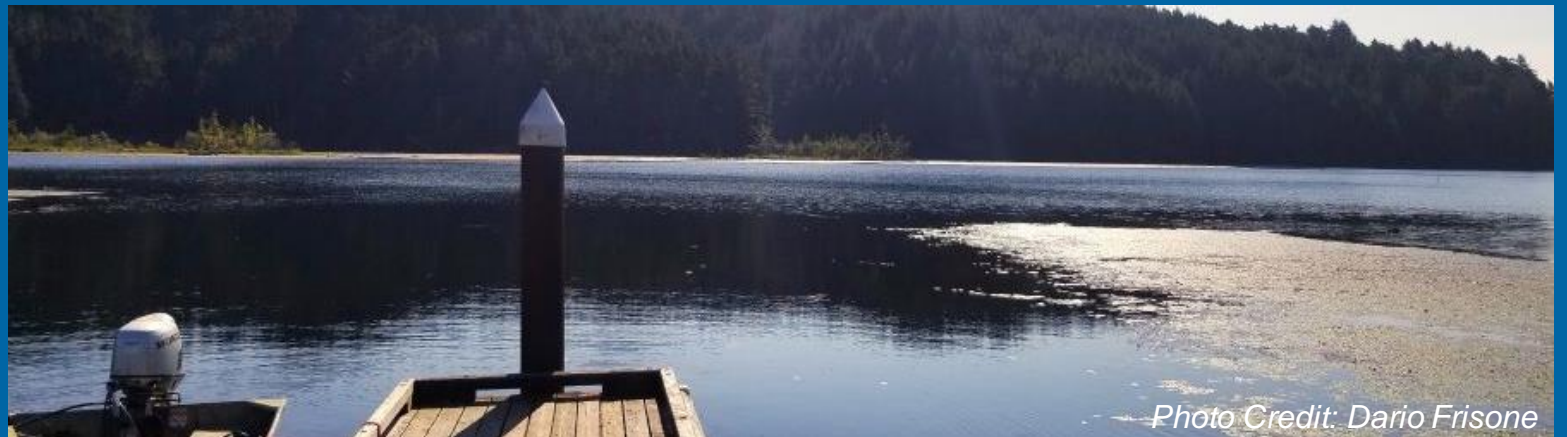


Photo Credit: Dario Frisone

Department of State Lands

Oregon Administrative Rules
OAR 141-082



However, “Limited Duration Uses” are exempt from authorization requirements.

"Temporary or infrequent use of state-owned waterways" are:

- Commercial use which is not more than a 14 consecutive day period in any one location
- Non-commercial use which is not more than 30 calendar days during any contiguous 12-month time period, within 5 miles

DSL has authority to pursue trespass and civil penalties for anyone that does not attain necessary authorizations.



Photo Credit: Liane O'Neill

Department of State Lands

Definitions in ORS 830, ORS
274 and OAR 141-082



Some key definitions that guide our work in ADV's:

“Abandoned Vessel” means a vessel that has been left without authorization on public or private land, the waters of this state, or any other water.

“Derelict Vessel” means a vessel that is on the waters of this state and that is:

- (a) Sunk or in imminent danger of sinking;
- (b) Obstructing a waterway;
- (c) Endangering life or property; or
- (d) In such a dilapidated condition that it is in danger of becoming a significant environmental hazard as evidenced by repeated and documented instances of leaking, fuel, sewage or other pollutants.

“Abandoned structure” means a structure that has been left without authorization on, under or over state-owned submerged or submersible lands.

Department of State Lands

Shipbreaking



If a vessel needs to be deconstructed in the waterway itself, there are additional considerations and restrictions.

For example, a ship may be too large for a dry dock. It would first need to be broken in the water before moving it to the dry dock. This requires permission from the DSL Director and coordination and notification with DEQ and the U.S. Coast Guard.

ORS 783.400(3)(a): Shipbreaking

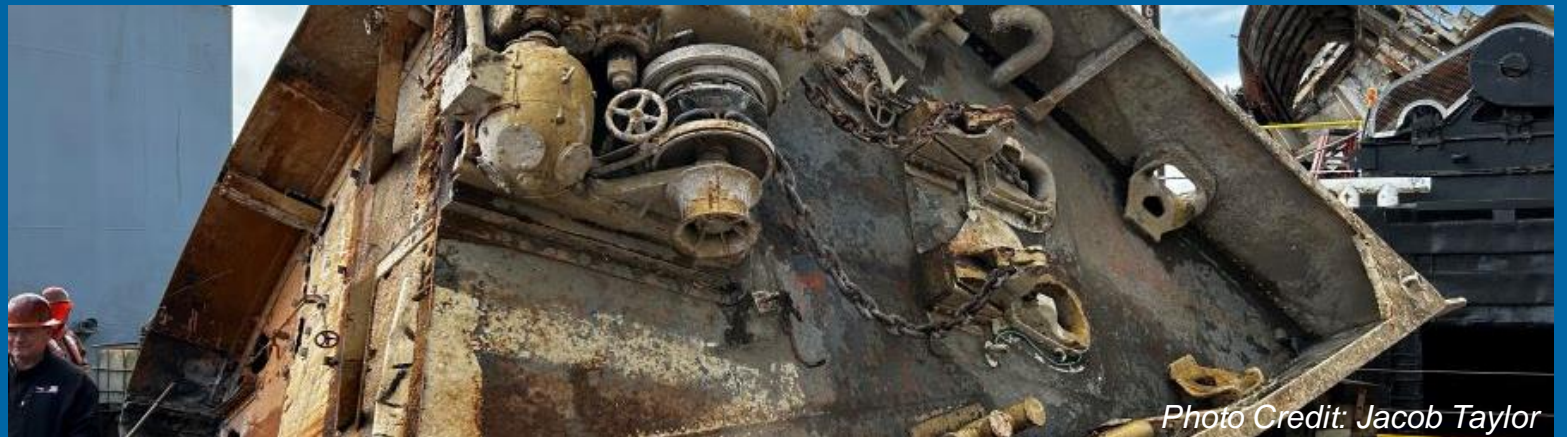


Photo Credit: Jacob Taylor

Department of State Lands

Marina leaseholders



Since 2021, new and renewed leases issued to marinas require annual reporting of boats in their marinas to DSL and the Marine Board.

The new reporting requirement includes the name and contact information of the boat owner, boat identification number, registration expiration date, and the boat's slip number in the marina.

Keeping boat registration up to date is the first step in preventing ADVs. OSMB has been doing much of this important work with their Clean Marina program.



Oregon State Marine Board

Oregon's Recreational Boating
Agency



Serving Oregon's recreational boating public through

- Access
- Education
- Enforcement
- Environmental stewardship

“Marine Board” refers to the 40-person agency located in downtown Salem and also to the voting body made up of 5 governor-appointed volunteers who guide statewide boating policy.

Major responsibilities: Boat titling/registration, marine LE training and funding, boater education, engineering and funding for access facilities

Oregon State Marine Board

Oregon Revised Statutes



830.911 Authority to seize abandoned vessel or derelict vessel.

(1) An enforcement agency may seize a vessel as an abandoned vessel if:

(a) The enforcement agency has probable cause to believe the vessel is an abandoned vessel; and

(b) An owner does not move the vessel to a place where the vessel can be lawfully kept within the time specified in the notice given under ORS 830.918, or within such additional time as may be specified in an order issued under ORS 830.936 (6).

(2) An enforcement agency may seize a vessel as a derelict vessel if:

(a) The enforcement agency has probable cause to believe the vessel is a derelict vessel and the enforcement agency documented the facts supporting that belief; and

(b) The owner does not correct the problems identified in the notice given under ORS 830.918 within the time specified in the notice, or within such additional time as may be specified in an order issued under ORS 830.936 (6).

830.908 Definitions for ORS 830.908 to 830.948. As used in ORS 830.908 to 830.948:

(4) “Enforcement agency” means a law enforcement agency, a federal agency, the State Marine Board or any other public body, as defined in ORS 174.109, that has responsibility for land or water on which an abandoned vessel or a derelict vessel is located.

Oregon State Marine Board

Oregon Revised Statutes



830.948 Salvaged Vessel Subaccount; sources; limits; uses.

- (1) The Salvaged Vessel Subaccount is established within the Boating Safety, Law Enforcement and Facility Account created under ORS 830.140. The subaccount shall consist of moneys deposited into the subaccount by the State Marine Board from fees collected pursuant to ORS 830.790 and 830.850. The moneys in the subaccount are continuously appropriated to the board for the purposes specified in this section.
- (2) The board may not deposit more than \$150,000 per biennium into the Salvaged Vessel Subaccount and may not retain more than \$150,000 in the subaccount at any time

Subaccount funds may be used to reimburse enforcement agencies for costs associated with salvage, towing, storage, and disposal of ADVs. The Marine Board may also initiate removals using the services of a contractor.

ORS 830.790 = boat registration fees

ORS 830.850 = floating home/boathouse title fees

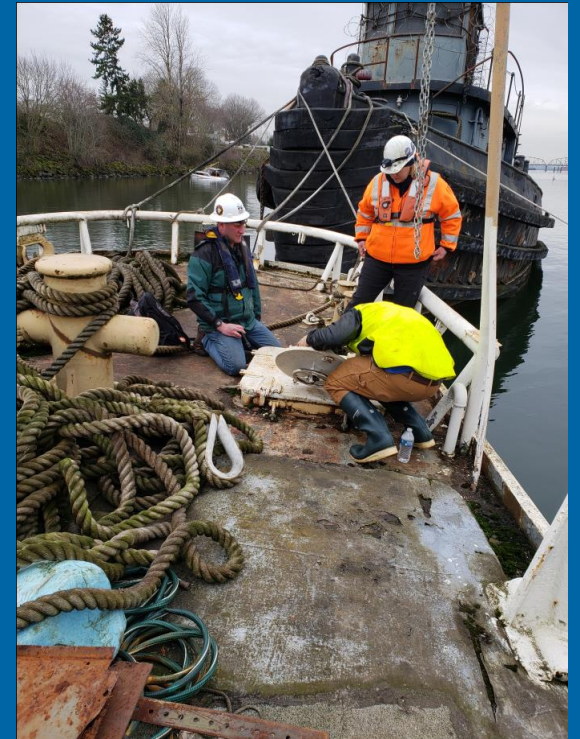
Department of Environmental Quality

Oregon Revised Statutes
Oregon Administrative Rules



DEQ may inspect vessels to prevent polluting waters of the state:

- State On-Scene Coordinators may inspect a vessel which is in imminent danger of sinking for oil or hazardous materials
 - ORS 468B.300 (29)
- Enforce Causing Pollution to Waters of the State
 - OAR 340-012-0055



Department of Environmental Quality

Permitting of Shipbreaking Facilities



In support of other agencies work to remove Abandoned and Derelict Vessels, DEQ approves various permits for shipbreaking facilities

- National Pollution Discharge Elimination Stormwater 1200-Z NPDES
- Solid Waste Letter of Authorization
- Solid Waste Material Recovery
- DEQ also requires compliance with disposal rules for other programs:
 - Asbestos abatement – Demonstrate compliance with Asbestos abatement rules by using an approved abatement contractor
 - Land Use Compatibility Statement – Requires approval by the appropriate local jurisdiction to complete a project
 - City and regional Solid Waste Disposal & Reclamation Facility Licenses
 - Requires compliance from other state agencies like DSL
 - Facility must segregate waste streams and track for final disposal all waste streams: PCB's, Asbestos, Scrap Steel, Oil & Oily Water, Garbage, etc.

Oregon Parks and Recreation Department

Role



Manages Statewide System of State Parks, the Willamette River Greenway and the Ocean Shore State Recreation Area

Response to ADVs on Freshwater

- Willamette Greenway
- Campgrounds w/lakes and moorage

Response to ADVs on the Ocean Shore

- Variable frequency, can be high-cost beach salvage operations



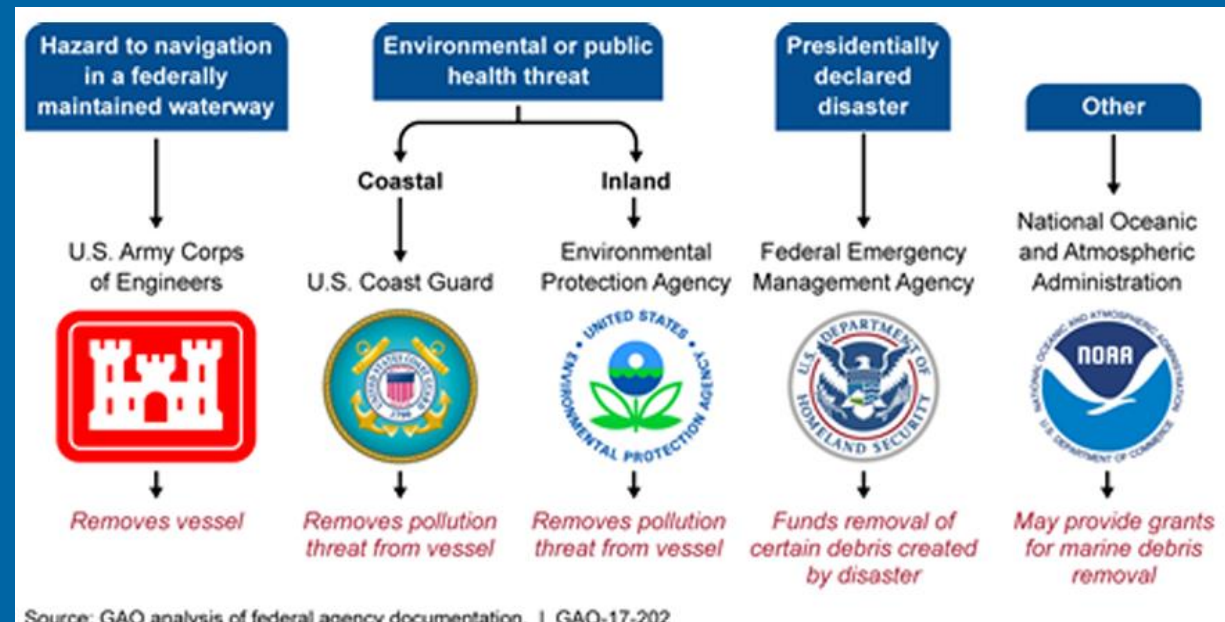
U.S. Federal Authorities



Five U.S. federal agencies have ADV authorities:

1. National Oceanic and Atmospheric Administration (NOAA)
2. United States Army Corps of Engineers (USACE)
3. United States Coast Guard (USCG)
4. Environmental Protection Agency (EPA)
5. Federal Emergency Management Agency (FEMA)

In general, they don't have funding to support actions beyond responding to ADVs posing navigation hazards in federally-maintained waterways and pollution and public health threats, nor were they required to do so by federal law or agency policy.





Summary of State Authorities

- Dept. of State Lands is a land owner and steward of publicly-owned waterways.
- DEQ regulates hazardous waste and responds to calls from the Oregon Emergency Response System.
- Oregon State Marine Board regulates recreational boating.
- Oregon Parks and Recreation Dept. manages the Oregon coast to the extreme low water and bodies of water in campgrounds.

What collaboration looks like in practice

In 2022 DSL worked with U.S. Coast Guard, Metro, and DEQ to remove and dispose of the Alert/Sakarissa. Partners split the cost and assisted each other to obtain the appropriate authorizations to do the work on an expedited timeline.



Gaps and Challenges in Agency Roles, Authorities, and Jurisdiction

Limited waterway jurisdiction

HB 2914 places ADV program at DSL, and DSL manages over 1,200 miles of waterways throughout Oregon. However, there are many waterways we don't have authority to manage. For example: Detroit Lake, Santiam River(s), and Deschutes River.

Blurred line between vessels and structures

Many sites include both abandoned and derelict vessels and structures. Definitions in OAR impacts which funds can be used, partners that can be engaged, and authorities that can be applied to situations like a structure created from found objects and being used as a floating residence. Financial securities like insurance can be tricky to navigate when considering "vessels" vs. "structures".



Gaps and Challenges in Agency Roles, Authorities, and Jurisdiction

Enforcement authorities for boat registration? Funding and motivation for registration and other similar compliance enforcement?

Commercial boat registration

Old, undesirable boats vs. ADVs

"Authority" vs. "Capability" and "Responsibility"

OSMB charge and scope

Owner accountability

ADV Workgroup Discussion: Roles, Authorities and Jurisdiction



Photo Credit: Jacob Taylor

Blue Ribbon Program

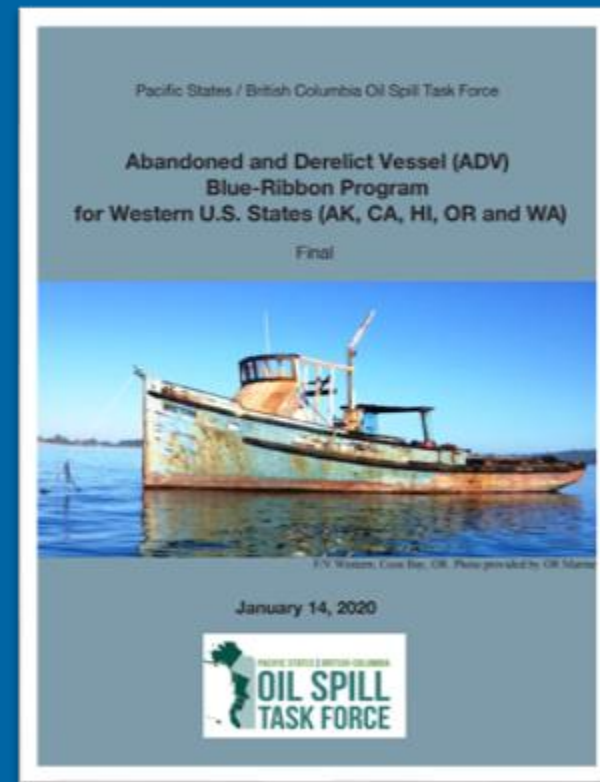


ADV Blue Ribbon Program Report for Western U.S. States

In 2018, an ADV Workgroup comprised of ADV experts and program leads from Alaska, California, Hawaii, Oregon, and Washington documented the scope and scale of the problem of ADVs across each Western U.S. state in a white paper.

Then, they developed a comprehensive, blue-ribbon or “model” state-level program recommendations for:

1. Authority
2. Prevention
3. Public Outreach and Education
4. Removal and Deconstruction
5. Funding
6. Recommendations for Federal Partners



DSL, OSMB, and DEQ were among the many partners in this workgroup.

Blue Ribbon Program

Recommendations : Authorities



Recommendations on authorities from the *Blue Ribbon Report*

1. Ensure broad capability within ADV programs.
 - ADVs vs. "nuisance boats"
2. Empower local (e.g. county, city, Ports, etc.) authorities to remove ADVs.
3. Mandate adherence to due process.
4. Empower agencies to dispose of ADVs in publicly beneficial ways.
5. Ensure that the agency with removal authority can remove any vessel, whether commercial or recreational.
6. Empower private property owners to declare vessels abandoned or derelict.
7. Extend ticketing authority to state agencies to enforce vessel registration and other aquatic laws.
 - Civil penalties for owning ADVs vs. threat of seizure?
 - Mechanism for local law enforcement agencies to be funded or compensated for time and equipment needed to enforce vessel registration and aquatic laws?

Authorities and Jurisdiction

What we heard from you



What we heard from 40+ stakeholder interviews in Summer 2023:

- The processes for vessel reporting, seizure, and disposal are confusing. More structure, guidance, and support is needed at the state level.
- The problems and negative impacts of ADVs grow each year. We need to act now with the authorities that agencies do have.
- Enforcement agencies have many of the authorities needed to address, if not prevent, ADVs. What's missing is the funding, streamlined procurement, and safe disposal options.
- There are opportunities for new or revised authorities to increase prevention.

Authorities and Jurisdiction

Discussion



What do you see as gaps or barriers
to authorities and jurisdiction at the state level?

At the local level?

At the federal level?

Authorities and Jurisdiction

Discussion



Recommendations on authorities

1. Ensure broad capability within ADV programs.
2. Empower local (e.g. county, city, Ports, etc.) authorities to remove ADVs.
3. Mandate adherence to due process.
4. Empower agencies to dispose of ADVs in publicly beneficial ways.
5. Ensure that the agency with removal authority can remove any vessel, whether commercial or recreational.
6. Empower private property owners to declare vessels abandoned or derelict.
7. Extend ticketing authority to state agencies to enforce vessel registration and other aquatic laws.
8. **Other? New ideas?**

Community Input



Give Community Input Today



Use the "Raise Hand" feature to provide community input. Time is limited and we may not be able to hear from all of you today.

- To raise your hand, click the reactions near the bottom of your screen and click "raise hand" or by pressing star 9 if you are on the phone.
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- Please keep your mic muted unless it is your turn to speak.

When it's your turn to speak:

- When your turn is coming up, the moderator will call on you to begin speaking.
- Please say your name, where you're from, and any organization you're representing.
- Please keep your remarks to **two minutes** and be respectful of each other and agency representatives. We will help track your time.



Thank You!

Cait McCusker

Community Engagement Officer

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**[www.oregon.gov/dsl/WW/
Pages/ADVAC](http://www.oregon.gov/dsl/WW/Pages/ADVAC)**