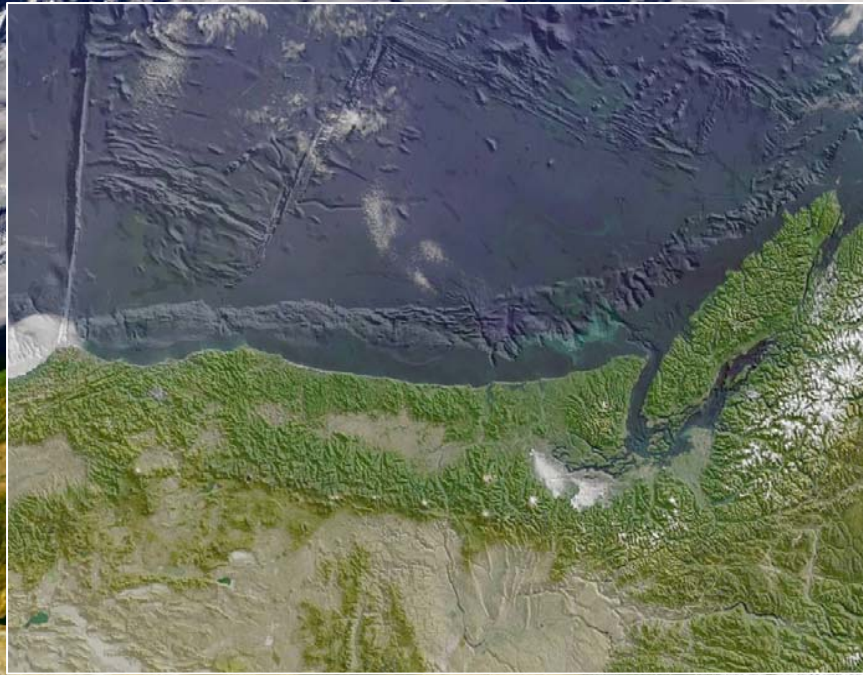


# An Overview of Ocean Planning and Management in Oregon



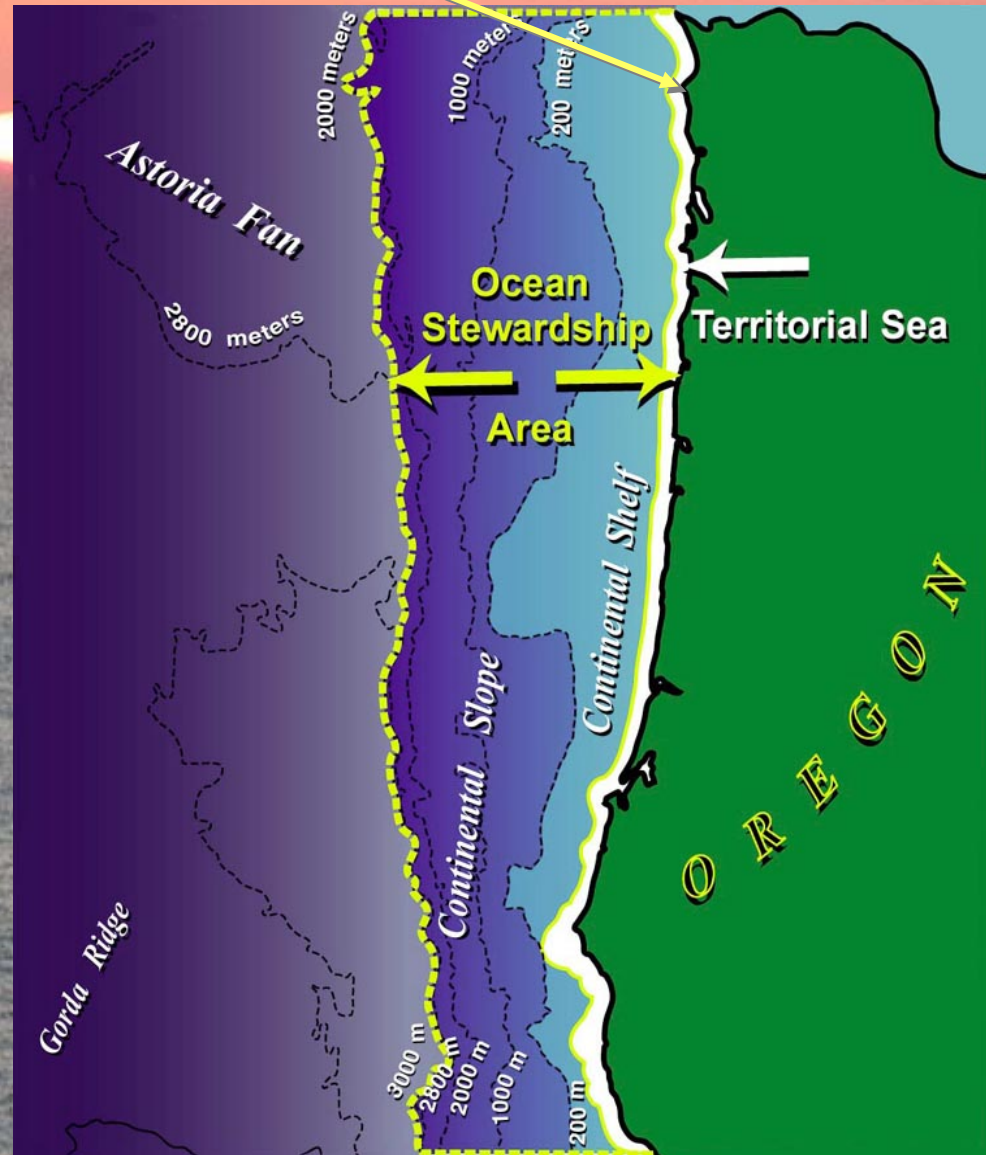


# Oregon Territorial Sea

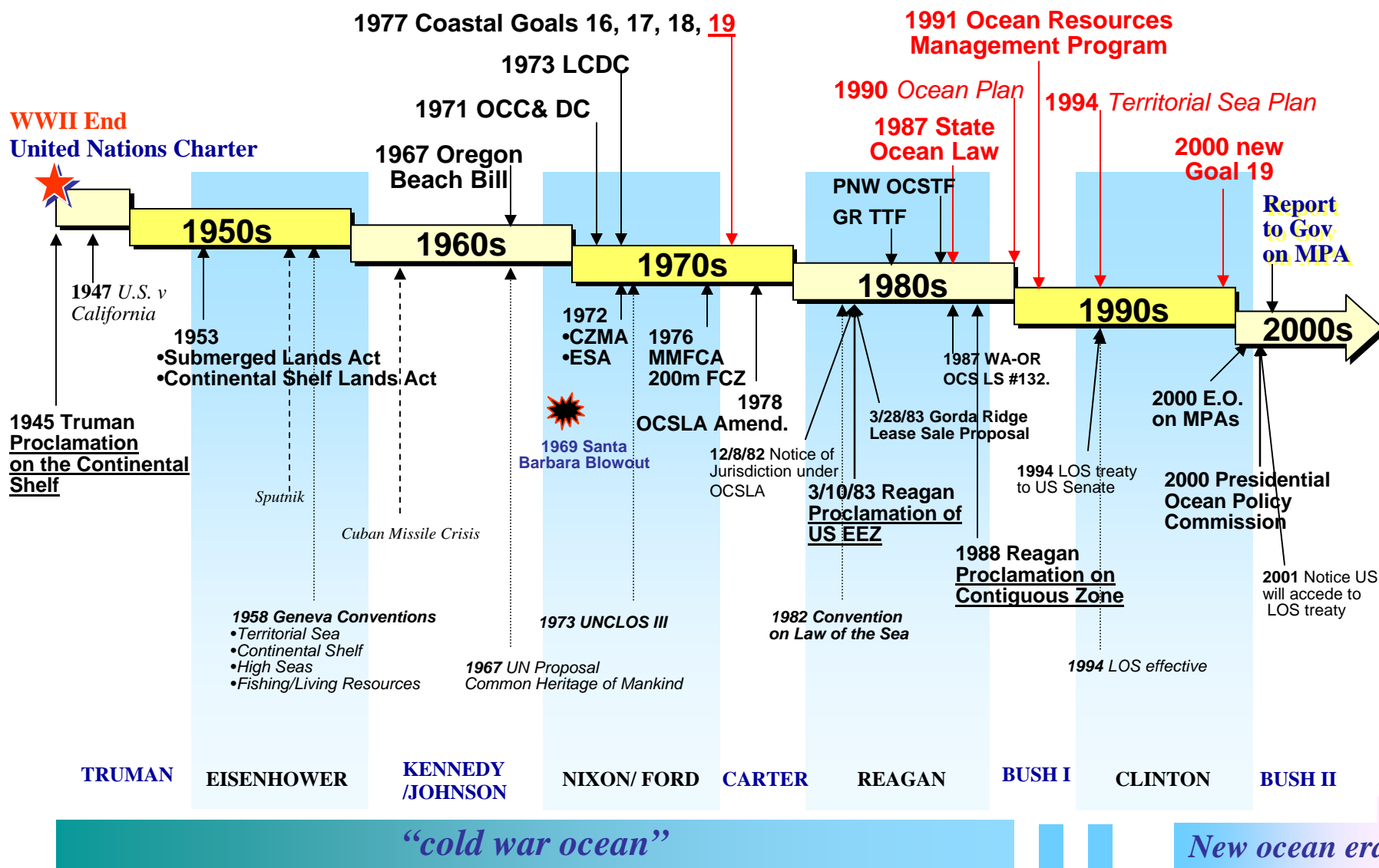
Oregon's state ocean area (the white strip) is three nautical miles wide, although offshore rocks extend this area seaward (e.g. south of [Cape Blanco](#) where Orford Reef expands the state ocean area to nearly seven statute miles).

Oregon has about 1200 square miles of ocean within state waters.

This map shows the [Ocean Stewardship Area](#), which extends from shore to the toe of the continental margin.



# Post-WWII Timeline of Key Ocean Policy Events/Actions





# Milestones for Ocean Resource Management

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- 
- 1971 Oregon Coastal Conservation and Development Commission** formed by legislature to develop coastal resource management plan.
- 1973 SB 100 enacted** by legislature, creating LCDC & DLCD and statewide land use program.
- 1976 Coastal goals 16 – 19 adopted**; Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources, based on OCC&DC recommendations.
- 1977 NOAA approves Oregon Coastal Management Program.**

# 1977

## **OVERALL**

Priority to renewable resources over non-renewable uses (concerns over oil and gas development)  
Long-term impact analysis  
State agency implementation

## **FISHERY RESOURCES**

Optimum sustained yield  
Ecosystem effects of activities

## **BIOLOGICAL HABITAT**

Ecologically important areas  
Ecosystem integrity

## **NAVIGATION and PORTS**

Navigation needs coastwide  
Protect navigation

## **AESTHETIC USE**

Maintain aesthetic experience

## **RECREATION**

Maintain, enhance opportunities

## **WASTE DISCHARGE & MINERAL EXTRACTION**

Interference with other uses  
Detracting from other uses  
Effects on renewable resources

## **DREDGED MATERIAL DISPOSAL**

Provide suitable sites  
Interference with other uses

## **ARCHAEOLOGICAL SITES**

Identify and protect underwater sites

## **OIL SPILL CONTINGENCY PLANS**

# Phase 1: Agency Coordination

- Goal 19 Ocean Resources circa 1977
- Governor's OCS Oil and Gas Development Task Force (1976-1979)
- Coastal Energy Impact Program (1976-1987)
- OCS Participation Program (1982-1990)
- Gorda Ridge Leasing Proposal & Task Force (1983-1987)
- Oregon Ocean Book published (1985)
- Territorial Sea Management Study (1985-1987)
- Governor's Territorial Sea Working Group (1986)

# 1992

## **LIVING MARINE RESOURCES**

- Kelp harvest (other "sea vegetables")
- Introduced species (e.g. sea otters)
- T & E species
- Artificial reefs
- Aquaculture
- Fisheries (commercial/sportfish)
- Intertidal areas
- Offshore ecosystem process
- El Nino
- Whale watching
- Water quality
- Ocean litter

## **NONRENEWABLE RESOURCES**

- Ocean mining
- Gravel deposits
- Oil and gas develop/exploration
- Offshore processing
- Sewage outfalls
- Transmission lines
- Pipelines

## **OCEAN USES/NAVIGATION**

- Navigation Channels and Aids
- Off-shore dredge material disposal
- Oil transport/hazardous substances
- Oil spill contingency plans
- Oil spill response center locations
- Military training (e.g. submarines)
- Jetties, riprap
- Search and rescue
- Shipwrecks (removal/liability)
- Treasure-trove
- Desalinization plants
- Tidal energy generation

## **OCEAN MANAGEMENT**

- 3-mile vs. 12-mile jurisdiction
- Special area designations
- Interstate jurisdiction/coordination
- Coordination with federal agencies
- Scientific research
- Computerized data base
- Local plans
- Citizen participation

## **OTHER**

- Natural hazards (tsunamis, etc)
- Coastal barriers



## Phase 2: Ocean Planning

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- 1987 Ocean Resources Task Force created by Oregon Legislature (SB 630)
- 1989 Moratorium on OCS oil and gas leasing in PNW negotiated by White House, governors of OR and WA.
- 1990 Oregon Ocean Resources Management Plan completed by Ocean Resources Task Force \*.
- 1991 Oregon Ocean Resources Management Program enacted by Legislature, creates Ocean Policy Advisory Council, requires Territorial Sea Plan
- 1994 Territorial Sea Plan adopted by LCDC as part of Oregon Coastal Management Program



# OCEAN MANAGEMENT ISSUES

1990's - Present

- MULTIPLE-USE MANAGEMENT
- BROAD PUBLIC INTERESTS WITH LOCAL EFFECTS
- INCREASED COMPLEXITY
- UNCERTAINTY
- LACK OF INFORMATION
- PRECAUTIONARY APPROACH
- OREGON EMBEDDED IN LARGER GOVERNANCE STRUCTURE AND MARINE ECOSYSTEM



# OCEAN MANAGEMENT ISSUES

## PERSPECTIVE SHIFTS:

EXPANSIVE UNLIMITED



LIMITS

SINGLE-SECTOR



INTEGRATED

LOCAL SITE-BASED



REGIONAL

SINGLE RESOURCES



ECOSYSTEM

STEADY-STATE



VARIABILITY

# 2000

## **HARVEST MANAGEMENT**

- Fisheries management
- Stock rebuilding
- Stock assessments
- Fisheries restructuring
- New niche fisheries
- New fishing techniques
- Fishing-habitat interactions
- Seaweed harvest

## **ECOSYSTEM INTEGRITY**

- Kelp-reef ecology
- Intertidal area overuse
- Nearshore/cross-shelf linkages
- Threatened/endangered species
- Estuarine-nearshore ocean linkages
- Watershed effects on marine systems
- Marine mammal/seabird protection
- Non-indigenous invasive species
- Water quality

## **MULTIPLE-USE MANAGEMENT**

- Cable/fisheries interactions
- Submarine cable routing
- Recreation vs commercial fisheries
- Marine wildlife disturbance
- Dredged material disposal

- Ocean sewage outfalls
- Shipwreck salvage
- Recreation/recreation interactions
- Area-based management

## **COMMUNITIES**

- Economic integrity
- Maintaining fisheries infrastructure
- Alternatives to fisheries
- Nature-based tourism
- Maintain environmental assets
- Economic/demographic shifts
- Ocean shore processes/"hazards"

## **NAVIGATION & PORTS**

- Jetty, channel maintenance
- Ocean dredged material disposal
- Spill prevention and response

## **PETROLEUM/MINERALS**

- Sand/gravel exploration

## **GOVERNANCE**

- Information via research & monitoring
- Interstate coordination
- State-federal integration
- Area-based management
- Agency Capacity



## **Phase 3: OPAC and TSP Implementation and Amendment**

- 2000 – LCDC adopts Goal 19 amendments based on OPAC recommendations
- 2000 & 2001 –LCDC adopts OAR 660-036-003 amending TSP to add Policy and Goals, Rocky Shore Mgt., and Cable and Pipelines
- 2003 - ORS 196 amended to change OPAC composition and status

# Ocean Governance

- Constitution and Public Trust
- State Agency Statutory Authorities
  - State Agency Coordination Requirement
  - Administrative Rules \ Regulations
- ORS 196.405 et seq
- Goal 19
- Territorial Sea Plan \ Ocean Resources Management Plan
- \* Federal Consistency

# Ocean Program

## State Agency Authorities and Responsibilities

### Department of Agriculture

- oyster/shellfish leasing;
- regulates chemical use affecting shellfish;
- seafood-commodity commissions.

### Department of Environmental Quality

- state pollution control agency;
- regulates point discharge into marine waters;
- oil spill prevention, response, plans, other;
- approves dredge and fill permits;
- CERCLA trustee.

### Department of Fish and Wildlife

- enforces state fish and wildlife laws;
- regulates marine fisheries harvest;
- regulates intertidal harvest or collecting;
- protects marine mammals, seabirds, T & E species;
- "marine biological consultant"
- CERCLA trustee.

### Dept. Geology & Mineral Industries

- regulates oil, gas, or mineral explore and extraction;
- advises DSL on geological/seismic survey permits;
- provides info on coastal hazards and processes.

### Dept. Land Conservation and Development

- Coastal Zone Management agency for Oregon;
- Ocean Program staff to Ocean Policy Advisory Council;
- administers Statewide Goal 19, Ocean Resources, others;
- oversees state-agency coordination requirements;
- administers federal consistency provisions in federal law.

### Parks and Recreation Department

- administers Oregon beach law and "Ocean Shore;"
- regulates sea walls, rip-rap, pipeline, cable crossings;
- regulates removal of products and "marine growth;"
- provides coastal recreation opportunities;
- operates state parks that access beach and rocky shores.

### Department of State Lands

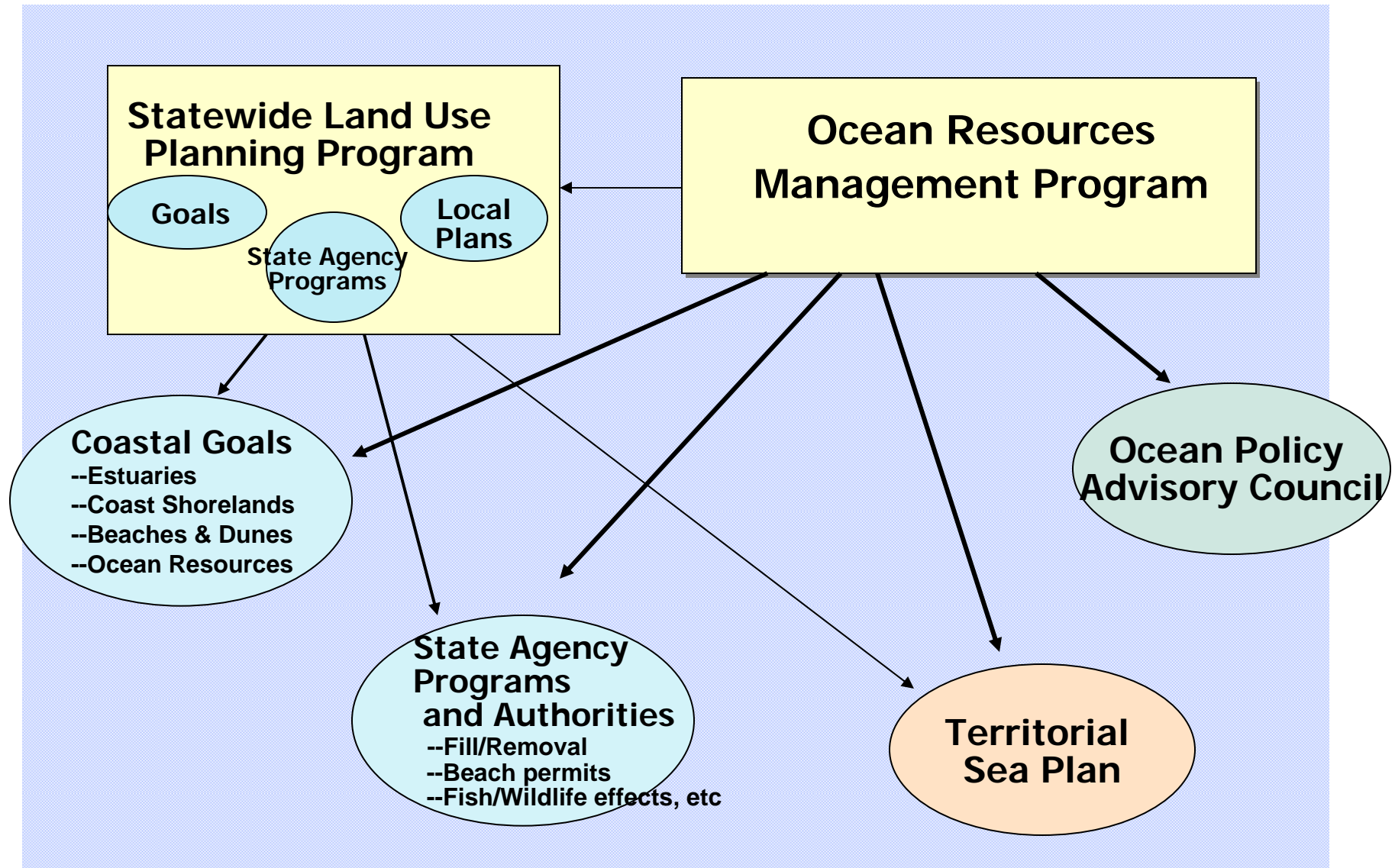
- public trust (beneath tidal and navigable waters);
- regulates removal - fill in waterways and wetlands;
- seafloor use lease (e.g. kelp harvest; oil / gas, cables, etc)

### Oregon Marine Board

Regulates boating in Territorial Sea



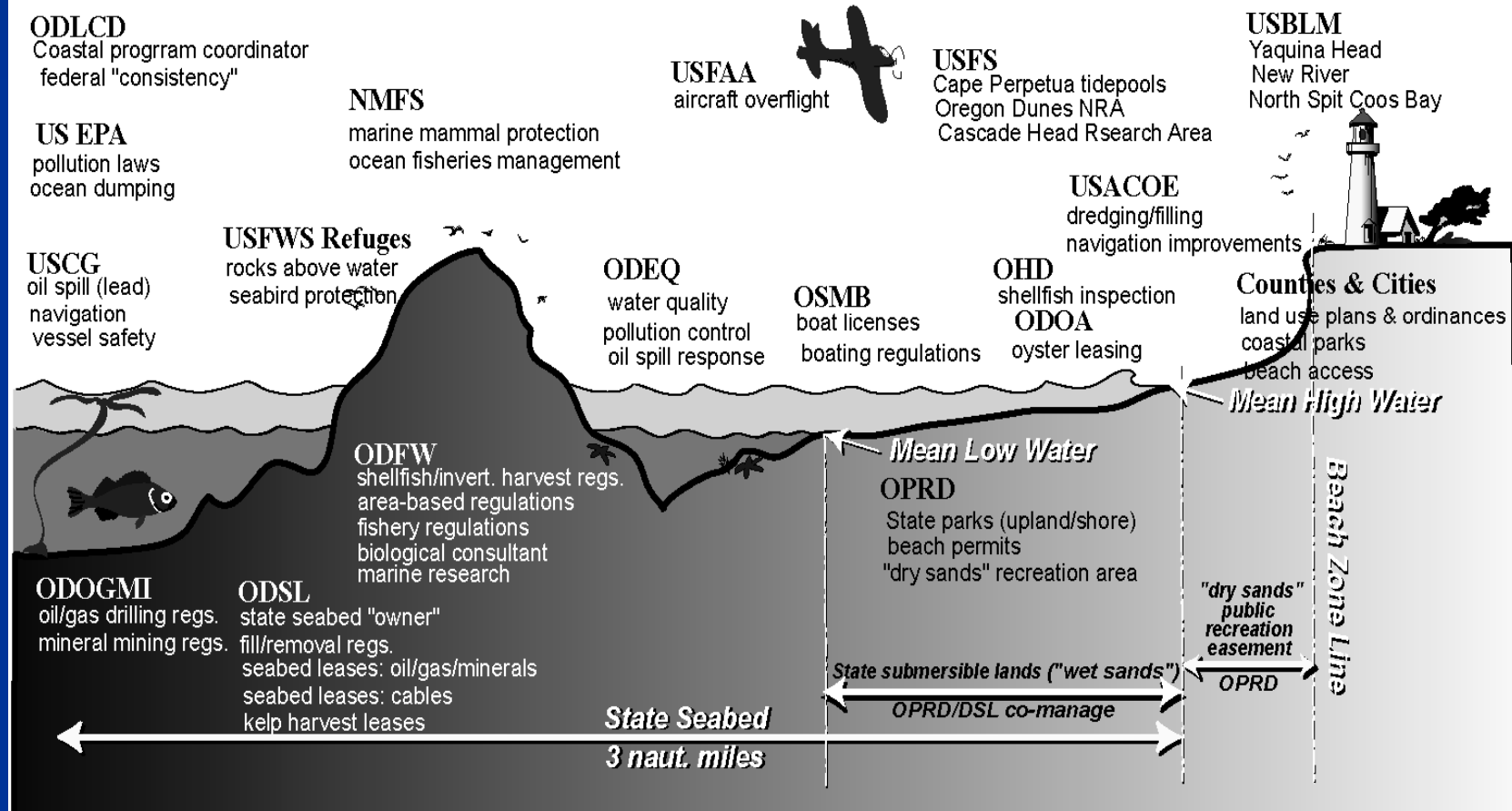
# State Ocean Program Structure



# Governmental Management Context

## The Oregon Coast and Ocean

### AGENCY PROGRAMS AND AUTHORITIES IN OREGON'S TERRITORIAL SEA AND OCEAN SHORE



# Territorial Sea Plan

- **Part 2** - Making Resource Use Decisions
  - (A) Resource Inventory and Effects Evaluation
  - (B) Joint Review Panels
  - (C) Local Government Consultation
- **Part 3** - Rocky Shore Management Plans
  - Strategy, Site Designations and Management Plans
- **Part 4** – Uses of Seafloor
  - Telecommunication Cables, Pipelines and Other Utilities



# Federal Consistency:

*Federal consistency is the CZMA requirement that federal actions that have reasonable foreseeable effects on any land or water use or natural resource of the coastal zone must be consistent with the enforceable policies of the coastal state's federally approved coastal management program.*

# Components of the OCMP

## “Enforceable Policies”

- Statewide Planning Goals
- Acknowledged local comprehensive plans and land use regulations
- Regulatory requirements of networked state agencies (e.g., DEQ, DSL, ODFW, Energy, Water Resources)

# Federal Consistency

*The federal Coastal Zone Management Act provides states with the authority to review:*

- Federal permits and licenses
- Federal agency activities
- Federal financial assistance
- Outer continental shelf permits and licenses
- (see 15 CFR 930.11(b) and 15 CFR 930.11(g)).



# Examples of Federal Licenses and Permits Subject to OCMP Review

**EPA:** Licenses and permits required under Section 102 of Marine Protection Research and Sanctuaries Act

**Corps:** Permits issued pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act

**USFWS:** Take permits under the Endangered Species Act

**FERC:** Licenses for pipelines or LNG facilities

# Federal Agency Actions

- Actions taken by or on behalf of a federal agency (e.g., dredging and jetty maintenance)
- Land acquisition and transfer or exchange
- Management of anadromous fish species and other marine resources that migrate between the coastal zone and the EEZ
- Outer Continental Shelf activities other than oil and gas

# State Agency Coordination & Federal Consistency

## SAC Review (ORS 197.180)

- **What:** programs affecting land use
- **Standard:** compliance and compatibility
- **Review:** as outlined in LCDC approved program
- **Local Role:** LUCS/Affidavit, comment (local permit)
- **DLCD Role:** review and comment

## Federal Consistency

- **What:** activities, permits, financial assistance, OCS
- **Standard:** consistency with enforceable policies
- **Review:** certification with data & information
- **Local Role:** LUCS/Affidavit, comment (local permit\*)
- **DLCD Role:** concur or object

\* *May not be required for federal agency or where specific federal law preempts local authority*

# ENERGY SITING in OREGON'S COASTAL ZONE

- **Wave Energy**
- **LNG**



0  
20  
40  
80  
120  
160

0 5 10 20 30

Altitude (m)



Wave Energy Permit Sites



# Federal Regulatory Authorities

- Federal Energy Regulatory Commission (FERC)
- Minerals Management Service (MMS)
- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- NOAA National Marine Fisheries Service

# FERC ➡ Energy ← CZMA

States have used energy facility siting processes and "federal consistency" review authority under the national Coastal Zone Management Act to

- coordinate reviews,
- resolve complex issues,
- provide for public comment, and
- ensure applicable standards are met before approval.

# State Regulatory Authorities

- Water Resources - ORS 543 Hydroelectric Water Right
- State Lands – ORS 196 R\F permit & ORS 273 lease
- Fish and Wildlife – ORS 506 & ORS 496 biological consult
- Environmental Quality – Sec 401 water quality certification
- Parks and Recreation – ORS 390 Ocean Shore Permit
- Coastal Management Program – Goal 19, Territorial Sea Plan and Federal Consistency
- Local Jurisdiction – upland development permit



# FERC ➡ ENERGY ⬅ CZMA

## KEY CONCEPTS

*State coastal energy facility siting processes are required under the CZMA and have been approved by NOAA.*

*States have authority under the CZMA to review all federal actions and permits affecting the coastal zone for "consistency" with enforceable policies approved by NOAA as part of the state's Coastal Management Program.*

FERC ➡ LNG ← CZMA

The 2005 Energy Policy Act (Sec 311(e)(1)) provides the Commission (FERC) with

*“exclusive authority to approve or deny an application for the siting, construction, expansion or operation of an LNG terminal.”*

# FERC → LNG ← CZMA

However:

The previous section (Sec 311(d)) says:

*"Except as specifically provided in this Act, nothing in this Act affects the rights of States under*

- (1) the Coastal Zone Management Act of 1972;*
- (2) the Clean Air Act;*
- (3) the Federal Water Pollution Control Act"*

In addition:

(Sec 311(e)(1)) also says:

*"Except as specifically provided in this Act, nothing in this Act is intended to affect otherwise applicable law related to any Federal agency's authorities or responsibilities related to LNG terminals."*

To Be Continued...

