

Appendix E: Oregon's Ocean Management

OREGON REVISED STATUTES (ORS 196.405 - .515)

OREGON OCEAN RESOURCES MANAGEMENT

196.405 Definitions for ORS 196.405 to 196.515. As used in ORS 196.405 to 196.515, unless the context requires otherwise:

- (1) "Council means the council established in ORS 196.438.
- (2) "Exclusive Economic Zone" has the meaning set forth in Proc. 5030 whereby the United States proclaimed jurisdiction over the resources of the ocean within 200 miles of the coastline.
- (3) "Ocean shore" has the meaning given the term in ORS 390.770.
- (4) "Panel" means a project review panel established under ORS 196.453.
- (5) "Plan" means the Oregon Ocean Resources Management Plan.
- (6) "Territorial sea" means the waters and seabed extending three geographical miles seaward from the coastline in conformance with federal law.
- (7) "Territorial Sea Plan" means the plan for Oregon's territorial sea and ocean shore adopted as set forth in ORS 196.471 [1987 c.576 §6; 1991 c.501 §2]

196.407 Policy for ORS 196.408. It is the policy of this state to:

- (1) Work with the States of Washington and California to explore the possibility of development of communication information systems including a computerized system of coastal and marine resource information.
- (2) Work with the States of Washington and California to develop compatible programs of ocean oil spill response, damage assessment and compensation.
- (3) Work with the States of Washington and California and federal agencies to develop compatible programs to complement federal programs which protect marine birds and marine mammals.
- (4) Cooperate and coordinate with adjacent states to develop a regional approach to obtaining fisheries information. [1989 c.895 §2]

196.408 Duties of state agencies. (1) State agencies shall, to the maximum extent practicable, coordinate development of coastal and ocean information systems with those of adjacent states. (2) State agencies with responsibility for oil spill and hazardous material response, damage assessment and compensation in the marine environment shall, to the maximum extent practicable, coordinate Oregon's plans, programs, policies and techniques with

those of adjacent states.

(3) State agencies which have jurisdiction over water areas, the seabed and resources adjacent to offshore rocks and islands shall coordinate with adjacent states and federal agencies to develop programs and regulations to manage uses and activities of ocean areas adjacent to coastal cliffs and offshore rocks and islands managed within the National Wildlife Refuge System.

(4) State agencies with responsibility for marine fishery resource management shall coordinate with fishery managers in adjacent states to develop a uniform fish catch and monitoring system. [1989 c.895  3]

196.410 Legislative findings for offshore oil and gas leasing.

The Legislative Assembly finds:

(1) Oregon's territorial sea encompasses all the rocks and island of the Oregon National Wildlife Refuge, borders all beaches, headlands and rocky intertidal areas and includes areas heavily used for commercial and recreational fishing. Navigation lanes for barges and vessels pass through the area.

(2) Oregon's territorial sea is rich in marine life. Its renewable resources support significant portions of the coastal economy. It is a dynamic, hazardous marine environment within which oil spills cannot be contained.

(3) Oregon's nearshore zone is extremely high in biological productivity, reflected by the variety and value of commercial and sport ocean fisheries catch. The Oregon coast provides a significant habitat for migrating seabirds and mammals. Oregon is unwilling to risk damaging sensitive marine environments or to sacrifice environmental quality to develop offshore oil and gas resources. [1989 c.895  4]

Note: Sections 5 and 6, chapter 895, Oregon Laws 1989, provide:

Sec. 5. Prohibition of certain leasing in territorial sea until June 30, 1995.

(1) Notwithstanding the provisions of ORS 274.710 to 274.860, 520.240 or any other provision of law, any form of leasing for purposes of exploration, development or production of oil, gas or sulphur is prohibited in the territorial sea.

(2) The provisions of subsection (1) of this section do not apply to exploration for academic research purposes or geologic survey activities of the State Department of Geology and Mineral Industries.

(3) Any exploration for oil, gas or sulfur in the territorial sea allowed under ORS 274.705 to 274.895 by the State Land Board or the Division of State Lands shall conform to any standards of the Oregon Ocean Resources Management Program established under ORS 196.405 to 196.515. [1989 c.895  5]

Sec. 6. The provisions of section 5 of this act are repealed on June 30, 1995. [1989 c.895  6]

196.415 Legislative findings for ocean resources management.

The Legislative Assembly finds that:

- (1) The Pacific Ocean and its many resources are of environmental, economic, aesthetic, recreational, social and historic importance to the people of this state.
- (2) Exploration, development and production of ocean resources likely to result from both federal agency programs in federal waters of the outer continental shelf and initiatives of private companies within state waters will increase the chance of conflicting demands on ocean resource for food, energy and minerals, as well as waste disposal and assimilation, and may jeopardize ocean resources and values of importance to this state.
- (3) There are many state agencies with particular regulatory or program interests in the ocean, its resource and uses but no comprehensive management plan or process to insure that state interests are protected and promoted both within state waters and beyond.
- (4) The fluid, dynamic nature of the ocean and the migration of many of its living resources beyond state boundaries extend the ocean management interests of this state beyond the three geographic mile territorial sea currently managed by the state pursuant to the federal Submerged Lands Act.
- (5) Existing federal laws, the Coastal Zone Management Act of 1972, the Coastal Zone Management Act Reauthorization Amendments of 1990, the Magnuson Fisheries Management Act of 1976, and the Outer Continental Shelf Lands Act of 1978, recognize the interests of coastal states in management of ocean resources in federal waters and provide for state participation in ocean resource management decisions. The Coastal Zone Act Reauthorization Amendments of 1990 require that all federal coastal activities affecting natural resources, land uses and water uses in the coastal zone must be consistent with the federally approved Oregon Coastal Management Program.
- (6) The 1983 Proclamation of the 200-mile United States Exclusive Economic Zone has created an opportunity for all coastal states to more fully exercise and assert their responsibilities pertaining to the protection, conservation and development of ocean resources under United States jurisdiction.
- (7) It is important that the State of Oregon develop and maintain a program and insure coordinated management of living and nonliving marine resources within state jurisdiction and with adjacent states, to insure effective participation in federal agency planning and management of ocean resources and uses which may affect this state, and to coordinate state agency management of ocean resources with local government management of coastal shorelands and resources.
- (8) While much is known about the ocean, its composition, characteristics and resources, additional study and research is required to gain information and understanding necessary for sound ocean planning and management.
- (9) New and innovative technologies are needed to insure future development of ocean resources in an environmentally responsible manner.

(10) Because Oregon's coastal local governments have important regulatory responsibilities for land uses and activities along the ocean shoreline, around estuaries and in coastal watersheds which can affect ocean resources, it is essential that comprehensive land use plans and land use regulations be fully coordinated with the state's program of ocean resource protection and management. [1987 c.576 3; 1991 c.501 3]

196.420 Policy. It is the policy of the State of Oregon to:

(1) Conserve the long-term values, benefits and natural resources of the ocean both within the state and beyond by giving clear priority to the proper management and protection of renewable resources over nonrenewable resources;

(2) Encourage ocean resources development which is environmentally sound and economically beneficial to adjacent local governments and to the state;

(3) Provide for efficient and coordinated ocean resources management through improvement of the state's coastal management program and statewide land use program;

(4) Assert the interests of this state as a partner with federal agencies in the sound management of the ocean resources within the United States Exclusive Economic Zone and on the continental shelf;

(5) Promote research, study and understanding of ocean processes, marine life and other ocean resources to acquire sufficient scientific inventory information necessary to describe and understand the long-term impacts of the proposed action on resources and uses of the ocean and nearshore area;

(6) Encourage research and development of new, innovative marine technologies to study and utilize ocean resources; and

(7) Assure that the council will work closely with coastal local governments to incorporate wherever possible elements of the local comprehensive plan, insuring coordination of Oregon's Ocean Resources Management Program with local land use plans and land use regulations. [1987 c.576 4; 1991 c.501 4]

196.425 Oregon Ocean Resources Management Program. To assure the conservation and development of ocean resources affecting Oregon consistent with the purposes of ORS 196.405 to 196.515 and 201.370, a coordinated program of ocean resource planning and management is established. This program shall be known as the Oregon Ocean Resources Management Program and is part of Oregon's coastal management program. The Oregon Ocean Resources Management Program consists of:

(1) Applicable elements of the Oregon Coastal Management Program approved by the U.S. Secretary of Commerce on July 7, 1977, and as subsequently amended pursuant to the Coastal Zone Management Act of 1972, including statutes, programs and policies of state agencies which apply to coastal and ocean resources, those elements of acknowledged local comprehensive plans of jurisdictions within Oregon's coastal zone as defined in the Oregon Coastal Management Program which may be affected by activities or use of resources within the ocean, and those statewide

planning goals which relate to the conservation and development of ocean and coastal resources.

- (2) The council and any cooperative agreements entered into by the council or its successor;
- (3) The Oregon Ocean Resources Management Plan as prepared and adopted pursuant to ORS 196.405 to 196.515 and 201.370;
- (4) The Territorial Sea Plan described in section 19, chapter 501, Oregon Laws 1991; and
- (5) State agency coordination requirements of ORS 197.180 as provided in ORS 196.485. [1987 c.576  5; 1991 c.501  5]

196.435 Primary agency for certain federal purposes; rules; restrictions. (1) The Department of Land Conservation and Development is designated the primary agency for coordination of ocean resources planning activities and the State Coastal Management Agency for purposes of carrying out and responding to the Coastal Zone Management Act of 1972. The department shall assist:

- (a) The Governor with the Governor's duties and opportunities to respond to federal agency programs and activities affecting coastal and ocean resources; and
- (b) The Ocean Policy Advisory Council.

(2) The provisions of ORS 196.405 to 196.515 and 201.270 do not change statutorily and constitutionally mandated responsibilities of other state agencies. However, state agencies shall amend their programs and rules relevant to ocean resources to be consistent with the Oregon Ocean Resources Management Plan and the Territorial Sea Plan adopted by the Land Conservation and Development Commission under ORS 196.471.

(3) ORS 196.405 to 196.515 and 201.370 do not provide the commission with authority to adopt specific regulation of ocean resources or ocean uses. [1987 c.576  7; 1989 c.325  1; 1991 c.501  21]

196.438 Ocean Policy Advisory Council; members; term of office; quorum. (1) There is established in the office of the Governor an Ocean Policy Advisory Council which shall be composed of:

- (a) The Governor or the Governor's designee;
- (b) The director or the director's designee of the following agencies:
 - (A) Department of Environmental Quality;
 - (B) State Department of Fish and Wildlife;
 - (C) State Department of Geology and Mineral Industries;
 - (D) Department of Land Conservation and Development;
 - (E) Division of State Lands;
 - (F) Parks and Recreation Department;

(G) State Department of Agriculture; and
(H) On behalf of the State Board of Higher Education, the director or director's designee of Oregon State University, Sea Grant College;

(c) A county commissioner of a county bordering the territorial sea to be appointed by the Governor;

(d) An elected city official from a coastal city bordering the territorial sea to be appointed by the Governor;

(e) A representative of each of the following ocean interests, to be appointed by the Governor:

(A) Commercial ocean fisheries of the North Coast from Newport north;

(B) Commercial ocean fisheries of the South Coast south of Newport;

(C) Charter, sport or recreation ocean fisheries of the North Coast from Newport north;

(D) Charter, sport or recreation ocean fisheries of the South Coast south of Newport;

(E) Ports Marine navigation or transportation;

(F) Coastal nonfishing recreation;

(G) A coastal conservation or environmental organization;

(H) Oregon Indian tribes appointed after consultation with the Commission on Indian Services; and

(I) A coastwide organization representing a majority of small ports and local governments; and

(f) Three representatives of the public, at least one of whom shall be a resident of a county bordering the territorial sea, to be appointed by the Governor.

(2) The term of office of each member appointed by the Governor is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) A majority of the members of the council constitutes a quorum for the transaction of business.

(4) The Governor shall appoint the council chair from among the membership. [1991 c.501  6]

Note: 196.438 to 196.443 were added to and made a part of 196.405 to 196.515 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

196.443 Duties of council. (1) The purposes of the Ocean Policy Advisory Council are to:

(a) Prepare a management plan for the territorial sea as described in ORS 196.471.

(b) Provide a forum for discussing ocean resource policy, planning and management issues and, when appropriate, mediating disagreements.

(c) Recommend amendments to the Oregon Ocean Resources Management Plan and Territorial Sea

Plan as needed.

(d) Offer advice to the Governor, the State Land Board, state agencies and local governments on specific ocean resources management issues.

(e) Coordinate interagency and inter-governmental review of specific ocean resource projects or actions through project review panels.

(f) Encourage participation of federal agencies in discussion and resolution of ocean resources planning and management issues affecting Oregon.

(g) Coordinate development of a computerized ocean resources information system among affected state and federal agencies.

(2) The council shall review the Oregon Ocean Resources Management Program and provide a report to the President of the Senate and the Speaker of the House of Representatives by December 1 of each even-numbered year. The report shall evaluate the program and recommend:

(a) Any needed program changes;

(b) Plans to continue scientific research needed to make decisions; and

(c) Any needed legislative changes. [1991] c.501 8]

Note: See note under 196.438

196.445 [1987 c.576 3; 1989 c.154 1; 1989 c.904 52; repealed by 1991 c.501 18]

196.448 Member compensation; meetings; rules. (1) A member of the council is entitled to compensation and expenses as provided in ORS 292.495.

(2) The council shall meet at least once every three months at a place, day and hour determined by the council. The council also shall meet at other times and places specified by the call of one of the cochairs or of a majority of the members of the council.

(3) In accordance with applicable provisions of ORS 183.310 to 183.550, the council may adopt rules necessary for the administration of the laws that the council is charged with administering. [1991 c.501 9, 10, 11]

Note: See note under 196.438.

196.450 [1987 c.576 9; repealed by 1991 c.501 18]

196.451 Technical advisory committee. (1) To aid and advise the council in the performance of its functions, the council shall establish a permanent scientific and technical advisory committee chaired by the director of the Sea Grant College program or other similarly qualified member of the

Ocean Policy Advisory Council may establish additional committees as needed.

(2) Members of the advisory committees are not entitled to compensation, but in the discretion of the council may be reimbursed from funds available to council for actual and necessary travel and other expenses incurred by them in the performance of their official duties, subject to ORS 292.495. [1991 c.501 §12]

Note: 196.451 and 196.453 were added to and made a part of 196.405 to 196.515 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

196.453 Project review panels. (1) The council may establish project review panels to address and coordinate the interests of state, federal and local governments in specific development proposals.

(2) The council may adopt rules to establish criteria to create review panels and determine the scope of the activities of the panel.

(3) A panel shall not have any authority independent of the council. The authority of any panel shall be that granted to it by the council.

(4) A panel shall take no actions establishing any fishing season, harvest allocation, geographic or other harvest restriction for fisheries conducted under a fisheries management plan authorized under 16 U.S.C. 1801 et seq. [1991 c.501 §16]

Note: See note under 196.451.

196.455 Coordination with federal programs. To insure that the Oregon Ocean Resources Management Plan and Territorial Sea Plan are coordinated with federal agency programs for coastal and ocean resources, the council shall invite federal agencies with responsibility for the study and management of ocean resources or regulation of ocean activities to designate a liaison to the council to attend council meetings, respond to council requests for technical and policy information and review draft plan materials prepared by the council. [1987 c.576 §10; 1991 c.501 §13]

196.465 Compatibility of acknowledged comprehensive plans.

(1) The plan and Territorial Sea Plan, when adopted pursuant to ORS 196.471, shall be compatible with acknowledged comprehensive plans of adjacent coastal counties and cities.

(2) To insure that the plans and the Territorial Sea Plan are compatible with the comprehensive plans of adjacent coastal counties and cities, the council shall work with the department and any Oregon coastal zone management association to:

(a) Meet and consult with local government officials;

(b) Distribute draft materials and working papers for review and solicit comment on council materials;

- (c) Provide technical and policy information to local governments about ocean resource issues;
- (d) Develop territorial sea plan policies to reflect, as necessary, coastal local government comprehensive plans;
- (e) Assist coastal local governments to amend comprehensive plans, as necessary, to meet state ocean resources management objectives; and
- (f) Establish provisions for mandatory consultation, as necessary, between local governments, the Governor and state agencies on major ocean development activities or actions.

(3) Based on consultations between the council and appropriate local governments, the council may recommend to appropriate local governments or the commission amendments to local comprehensive plans or land use regulations needed to achieve compatibility with the policies of ORS 196.405 to 196.515 and carry out the policies of the Territorial Sea Plan. [1987 c.576 §11; 1991 c.501 §14]

196.470 [1987 c.576 §12; repealed by 1991 c.501 §18]

196.471 Territorial Sea Plan review requirements. (1) The commission shall review the Territorial Sea Plan and any subsequent amendments recommended by the council to either the Territorial Sea Plan or the Oregon Ocean Resources Management Plan and make findings that the plan or amendments:

- (a) Carry out the policies of ORS 196.405 to 196.515;
- (b) Are consistent with applicable statewide planning goals, with emphasis on the four coastal goals; and
- (c) Are compatible with adjacent county comprehensive plans as required in subsection (5) of this section.

(2) After making the findings required by subsection (1) of this section, the commission shall adopt the Territorial Sea Plan or proposed amendments as part of the Oregon Coastal Management Program.

(3) If the commission does not make the findings required by subsection (1) of this section, the commission shall return the plan or amendments to the council for revision. The commission may specify any needed revisions.

(4) Upon adoption of the Territorial Sea Plan or subsequent amendments the commission may, after consultation with affected state agencies, identify amendments to agency ocean or coastal resource management programs necessary to conform to the provisions of the adopted plan. [1991 c.501 §20]

Note: 196.471 was added to and made a part of 196.405 to 196.515 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

196.475 Consultation with state and interstate organizations. The council shall consult with appropriate agencies and programs in Washington, California, British Columbia and Alaska and with appropriate interstate organizations. [1987 c.576  13; 1991 c.501  15]

Note: Section 15, chapter 576, Oregon Laws 1987, as amended by section 19, chapter 501, Oregon Laws 1991, provides:

Sec. 15. Initial Territorial Sea Plan. (1) By July 1, 1994, the Ocean Policy Advisory Council shall adopt a plan for management of resources and uses of the state territorial sea and ocean shore. The Territorial Sea Plan shall be based on the policies and recommendations of the Oregon Ocean Resources Management Plan.

(2) The Territorial Sea Plan may include:

(a) More detailed analyses of and implementation strategies for issues, policies and recommendations of the plan;

(b) Policies or standards applicable to local government, state and federal agency plans or actions within or affecting resources and uses of Oregon's territorial sea.

(c) Special subarea management plans to resolve multiple use conflicts in specific areas, and

(d) Recommendations to the commission for improvement or amendments to the Oregon Coastal Management Program.

(3) The Ocean Policy Advisory Council shall submit the Territorial Sea Plan to the Land Conservation and Development Commission for adoption as part of the Oregon Coastal Management Program. [1987 c.576  15, 1991 c.501  19]3

196.485 State agency coordination requirements; incorporation of plans. (1) If a state agency incorporates the Oregon Ocean Resources Management Plan and Territorial Sea Plan by reference in its coordination program and, upon a finding by the commission that the agency has amended its rules, procedures and standards to conform with the objectives and requirements of the plan and Territorial Sea Plan, the state agency shall satisfy the requirements of state agency planning and coordination required by ORS 197.180 for ocean planning.

(2) If a state agency does not incorporate the plan or Territorial Sea Plan in its coordination program, the agency shall be subject to the state agency coordination requirements of ORS chapters 196 and 197 for state agency programs, procedures and standards that in any way affect ocean resources.

(3) State agency programs or rules for management of ocean resources or ocean uses shall be consistent with the Oregon Ocean Resources Management Plan and the Territorial Sea Plan. [1987 c.576  17; 1991 c.501  17]

196.490 [1987 c.576 ə18; repealed by 1991 c.501 ə18]

196.495 [1987 c.576 ə19; repealed by 1991 c.501 ə18]

196.500 [1987 c.576 ə20; repealed by 1991 c.501 ə18]

196.505 [1987 c.576 ə21; repealed by 1991 c.501 ə18]

196.515 Short title. ORS 196.415 to 196.515 shall be known as the Oregon Ocean Resources Management Act. [1987 c.576 ə2]

196.575 Authorization to obtain federal oceanographic data; joint liaison program; use of data. (1) The Department of Land Conservation and Development is authorized to participate on behalf of the State of Oregon with the States of Washington, California, Alaska and Hawaii in a joint liaison program with the Center for Ocean Analysis and Prediction of the National Oceanic and Atmospheric Administration.

(2) The objective of the Program is to assist the states in taking maximum advantage of the oceanographic data, products and services available from the federal Government through the Center for Ocean Analysis and Prediction.

(3) The Department of Land Conservation and Development shall integrate data obtained through the liaison program for use by other state agencies and maximize the use of the State Service Center for Geographic Information Systems. [1991 c.524 ə1, 3]

Note: 196.575 and 196.580 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 196 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

196.580 Liaison program duties. (1) the liaison program shall:

(a) Assist state and local governments to become fully aware of oceanographic data and products available from the Federal Government and in particular from the Center for Ocean Analysis and Prediction.

(b) Assist the Center for Ocean Analysis and Prediction and the National Oceanic and Atmospheric Administration to become more fully aware of state and local problems and the requirements of state and local governments.

(c) Assist in setting up lines of communication to move oceanographic data and products from the Center for Ocean Analysis and Prediction to the people in the states who need those data and products.

(2) The liaison program also shall include work-shops for small groups of technical experts from state and local governments, academic institutions and the private sector. The workshops shall be held at the Center for Ocean Analysis and Prediction in Monterey, California, and at other facilities

in the western states as appropriate. [1991 c.524  2]

Note: See note under 196.575.

201.370 Boundaries of counties bordering Pacific Ocean. (1) The boundaries of all counties bordering on the Pacific Ocean extend to the western boundary of the state as defined in the Oregon Constitution.

(2) Notwithstanding the provisions of subsection (1) of this section, planning for ocean resources and for submerged and submersible lands of the territorial sea shall be accomplished as set forth in ORS 196.405 to 196.515. [Amended by 1987 c.576  22]