

Oregon Territorial Sea Plan

Adopted 1994



PART ONE:

Ocean Management Framework

E. OCEAN MANAGEMENT AGENCIES

NOTE: The following descriptions of agency programs and authorities are limited to those that relate to ocean or coastal resources. These descriptions are necessarily brief and do not purport to be comprehensive.

1. State Agencies

a. Department of Agriculture

The Department of Agriculture has three interests in the territorial sea. One is the leasing and regulatory functions for oysters (although in Oregon none are grown outside of estuaries); the second is regulating the use of TBT (tri-butyltin), a chemical in antifouling paints used to retard the growth of marine life on boat hulls; the third is assisting in the marketing of seafood commodities through seafood-commodity commissions.

b. Department of Environmental Quality (DEQ)

The Department of Environmental Quality has overall authority for protecting water and air quality in the territorial sea. In addition to authority and responsibility to carry out state pollution laws, the DEQ is authorized to carry out federal pollution-control laws such as the Clean Water Act and regulate discharge of pollutants into marine waters under the federal National Pollutant Discharge Elimination System. DEQ also has oil spill prevention and response responsibilities and evaluates oil spill contingency plans mandated by state law, manages oil spill response activities, and provides public education and outreach to volunteer responders. DEQ and its oversight body, the Environmental Quality Commission, has divided the state into water quality basins; there are five such basins along the Oregon coast and they include marine and estuarine waters as well as fresh. "Marine waters" are defined by DEQ rules to mean "all oceanic, offshore waters outside the estuaries or bays and within the territorial limits" of the state. DEQ is also involved in reviewing dredge and fill permits for certification of water quality under Section 401 of the Clean Water Act. DEQ and the ODFW are jointly designated as trustee under state and federal law (CERCLA) to assess and recover compensation for environmental damages from oil spills, water pollution, etc.

c. Department of Fish and Wildlife (ODFW)

The Department of Fish and Wildlife has broad authority to develop protection programs for fish and wildlife and enforce fish and wildlife laws. The Fish and Wildlife Commission, ODFW's oversight policy body, has adopted harvest regulations for intertidal animals, fish, and shellfish, including sea urchins. ODFW also has responsibilities for protecting marine mammals, including threatened or endangered species, and sea birds. ODFW provides an increasingly important role as the state's "marine biological consultant" to other agencies and the Governor on ocean-related programs such as kelp leasing, dredge-material disposal, marine mineral exploration, and ocean discharge of wastes. ODFW and the DEQ are jointly designated as trustee under state and federal law (CERCLA) to assess and recover compensation for environmental damages from oil spills, water pollution, etc.

d. Department of Geology and Mineral Industries (DOGAMI)

The Department of Geology and Mineral Industries has three primary interests in territorial-sea management. One is regulatory authority over such operations as exploring for and extracting oil, gas, or geothermal resources in the territorial sea and coastal zone and hard minerals, such as sand and gravel, on upland sites. Another is advising the Division of State Lands when that agency issues permits for exploratory geological, geophysical, and seismic surveys in the territorial sea. A third is related to understanding and mitigating for geologic hazards and processes. DOGMI undertakes coastal-hazard assessments and studies for both chronic and catastrophic hazards and conducts programs aimed at reducing loss of life and property.

e. Department of Land Conservation and Development (DLCD)

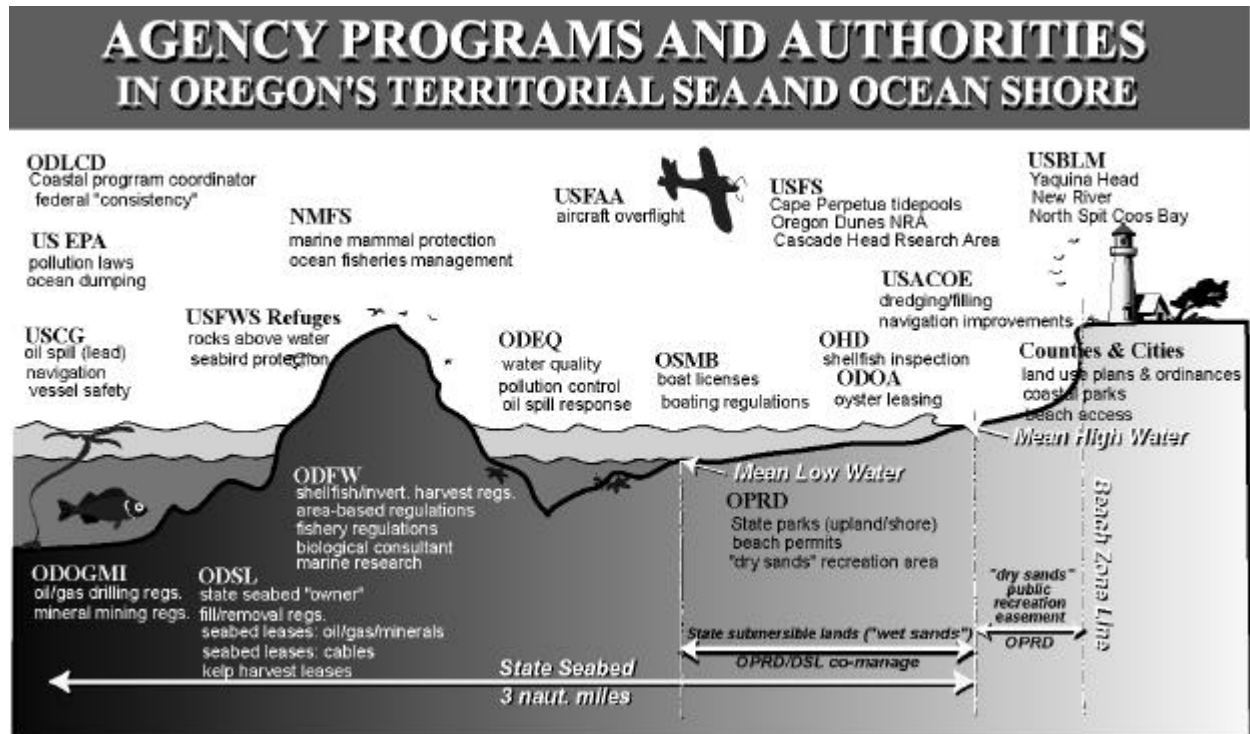
The DLCD is designated by statute as the state's Coastal Zone Management Agency for federal coastal management purposes, provides staff support to the Ocean Policy Advisory Council, and administers the state's land-use program, including Statewide Planning Goal 19, Ocean Resources, and the other 18 statewide goals. DLCD has no direct regulatory authority for ocean resources but, through state-agency coordination requirements and through federal consistency requirements, is the coordinator among all coastal resource agencies to make sure their actions and programs are coordinated with each other, local governments, and the Oregon Coastal Management Program.

f. Oregon Parks and Recreation Department (OPRD)

The Oregon Parks and Recreation Department has several management interests in the Territorial Sea. The ocean beach law designates all of Oregon's "ocean shore" as a state recreation area to be managed by OPRD. OPRD has regulatory authority over improvements such as sea walls, rip-rap, pipeline and cable crossings, and other construction within the area from the statutory vegetation (beach zone) line seaward to Extreme Low Tide. Within this "ocean shore," PRD has concurrent jurisdiction with the DSL over submerged and submersible lands seaward of Mean High Water (the so-called "wet sands"). OPRD owns and manages many state parks on the upland adjacent to rocky-shore sites that provide access to rocky shores.

g. Division of State Lands (DSL)

The Division is the administrative arm of the State Land Board (composed of the Governor, Secretary of State, and Treasurer) which manages the assets (land and money) of the Common School fund and which holds in trust for the people of Oregon all lands under tidal and navigable waters, including rocky intertidal areas and submerged rocks and reefs in the state's Territorial Sea. In these areas the Division has authority over removal and fill; kelp or seaweed harvest; shellfish harvest (except oysters); geological, geophysical, and seismic surveys; oil, gas, and mineral leasing; and easements or other rights-of-entry for various uses.



FEDERAL AGENCIES

USFWS: U.S. Fish and Wildlife Service
 USEPA: U.S. Environmental Protection Agency
 USACOE: U.S. Army Corps of Engineers
 NMFS: National Marine Fisheries Service
 USBLM: U.S. Bureau of Land Management
 USCG: U.S. Coast Guard
 USFS: U.S. Forest Service
 FAA: Federal Aviation Authority

STATE AGENCIES

DLCD: Dept. of Land Conservation and Development
 DOGAMI: Dept. of Geology and Mineral Industries
 ODFW: Dept. of Fish and Wildlife
 DSL: Division of State Lands
 DEQ: Dept. of Environmental Quality
 DOA: Dept. of Agriculture
 OPRD: Oregon Parks and Recreation Department
 OHD: Oregon Health Division
 OSMB: Oregon State Marine Board

COUNTIES AND CITIES (fronting on the ocean)

CLATSOP: Gearhart, Seaside, Cannon Beach, Warrenton
 TILLAMOOK: Manzanita, Rockaway Beach
 LINCOLN: Lincoln City, Newport, Yachats
 LANE: none
 DOUGLAS: none
 COOS: Bandon
 CURRY: Port Orford, Gold Beach, Brookings

Fig. 5 Agencies Diagram

h. State Marine Board

The Marine Board has authority to regulate boating activities in state waters, including the Territorial Sea. The Marine Board, through boater education and publications, can assist in education and awareness of wildlife resources affected by boating activity.

2. Federal Agencies

NOTE: The following descriptions of agency programs and authorities are limited to those that relate to ocean or coastal resources. These descriptions are necessarily brief and do not purport to be comprehensive.

a. Army Corps of Engineers (USACE)

The Corps is responsible for building and maintaining coastal navigational projects, including jetties, navigation channels, and navigational structures under the Rivers and Harbors Act (33 USC 401 - 709b and 2201 - 2329). Material dredged from coastal ports is frequently disposed in ocean waters at sites designated by the Environmental Protection Agency (EPA). Placement of dredged materials at these ocean sites is regulated under sections 102 and 103 of the Marine Protection, Research, and Sanctuaries Act (MPRSA) administered by the EPA or the Corps under section 404 of the Clean Water Act (CWA). The Corps also has permit authority over work performed by others in navigable waters under section 10 of the Rivers and Harbors Act, Section 404 of the CWA, and section 103 of the MPRSA.

b. Bureau of Land Management (BLM)

The BLM (within the U.S. Department of the Interior) owns and administers, on behalf of the public, several sites that include or are adjacent to ocean shore areas. These are Yaquina Head Outstanding Natural Area near Newport, the Coos Head (Cape Gregory) Lighthouse Reserve and Squaw Island near Coos Bay, New River Area of Critical Environmental Concern near Langlois, Cape Blanco Lighthouse Reserve, North Sisters Rock south of Port Orford, and Zwagg Island at Brookings.

c. U.S. Coast Guard (USCG)

The US Coast Guard has several lines of authority and program activities that relate to Oregon's territorial sea. The USCG (1) is the lead agency for oil-spill response and cleanup and is the on-scene coordinator for planning and response; (2) maintains search-and-rescue stations, including air stations at Warrenton (Astoria) and North Bend (Coos Bay); (3) has authority over buoys and markers to regulate vessel operations. The USCG has a program of routine Marine Environmental Patrols along the ocean shore to locate and ensure safe removal of any hazardous materials or debris that may be washed ashore.

d. Environmental Protection Agency (EPA)

The EPA is responsible for protecting marine water quality under several federal laws. The EPA and Oregon Department of Environmental Quality have entered into an agreement whereby the DEQ regulates all point-source (e.g. a pipe) discharges into rivers, estuaries, and marine waters through the National Pollutant Discharge Elimination System (NPDES). EPA is also charged with carrying out the Marine Protection, Research, and Sanctuaries Act of 1972 (also known as the Ocean Dumping Act), the Marine Plastics Pollution Research and Control Act of 1987, and the National Marine Pollution Program. The EPA also administers the Clean Air Act of 1977.

e. U.S. Fish and Wildlife Service (USFWS)

The USFWS (within the U.S. Department of the Interior) administers three National Wildlife Refuges in Oregon's Territorial Sea: the Oregon Islands NWR, Cape Meares NWR, and Three Arch Rocks NWR. USFWS jurisdiction includes approximately 1,400 rocks and islands above state jurisdiction (Mean High Water), the so-called "dry" portion of the rocks and islands. In addition, USFWS co-administers the federal Endangered Species Act and administers several other federal laws related to marine wildlife and seabirds.

f. U.S. Forest Service (USFS)

The Forest Service, an agency of the U.S. Department of Agriculture, operates the Cape Perpetua Visitors Center. Linked to the visitor center are access trails, interpretive facilities, and visitor information programs related to the rocky intertidal areas adjacent to lands of the Siuslaw National Forest.

g. Minerals Management Service (MMS)

The Minerals Management Service is housed in the Department of the Interior. It has two functions of potential interest in Oregon's territorial sea. One is locating and mapping the coastal baseline from which the state's three-mile seaward boundary is drawn for purposes of offshore oil and gas leasing. The other is preparing and carrying out a program of oil and gas lease sales in federal waters of the Outer Continental Shelf and offering leases for marine mineral exploration and development in federal waters.

h. National Marine Fisheries Service (NMFS)

The National Marine Fisheries Service, a branch of NOAA within the US Department of Commerce, has three interests in Oregon's Territorial Sea. First, NMFS administers the Marine Mammal Protection Act which protects all seals, sea lions, whales, and other marine mammals that use Oregon's ocean area. Second, NMFS co-administers the federal Endangered Species Act under which the Steller sea lion, which breeds on the Oregon coast, is protected. Third, NMFS regulates certain ocean fisheries under the Magnuson Marine Fisheries Conservation Act with consequent indirect effect on fishing activity in Oregon's territorial sea.

i. National Ocean Service, Office of Ocean and Coastal Resources Management (OCRM)

OCRM, a relatively small agency in NOAA, is responsible for administering the National Coastal Zone Management Act of 1972, as subsequently amended. OCRM administers essential federal funds to state coastal management programs through both regular grants and special program enhancement grants. Oregon has made use of both grant programs to fund development of the Territorial Sea Management Plan. OCRM has responsibility within NOAA and the Department of Commerce for reviewing and approving state coastal management programs and subsequent amendments under the federal Coastal Zone Management Act. The National Marine Sanctuary Program and National Estuarine Research Reserve Program are administered by OCRM.

3. Local Governments

a. Cities

Thirteen cities border Oregon's territorial sea: Brookings, Gold Beach, Port Orford, Bandon, Yachats, Waldport, Newport, Depoe Bay, Lincoln City, Rockaway Beach, Manzanita, Cannon Beach, and Seaside. Although these coastal cities have very limited jurisdiction or authority over ocean shore resources or areas, they may play a role in protecting and managing rocky shore areas and resources through policies and decisions about land use on adjacent uplands.

b. Counties

Seven Oregon counties border the Pacific Ocean: Curry, Coos, Douglas, Lane, Lincoln, Tillamook, and Clatsop. Notwithstanding the fact that county boundaries and jurisdiction extend westward to the limit of state waters, Oregon law [ORS 201.370(2)] specifically delegates the planning function for the Territorial Sea to the Ocean Policy Advisory Council and the Territorial Sea Plan. Like coastal cities, coastal counties can play a part in the management of some rocky shore sites where local land-use plans and ordinances can be used to help carry out this rocky shore strategy.

The Council is required to consult with local governments on ocean developments. These mandatory consultation provisions are included in Part Two, Making Resource Use Decisions.

c. Coastal Port Districts

There are fifteen port districts on the Oregon coast: the Ports of Brookings-Harbor, Gold Beach, Port Orford, Bandon, Coquille River, Coos Bay, Umpqua, Siuslaw, Alsea, Newport, Toledo, Nehalem, Garibaldi, Tillamook Bay, and Astoria. While these governmental entities do not have land use planning responsibilities under Oregon law like those of counties or cities, they nonetheless have direct interests in the economy of the coast and, therefore, can play a key role in promoting development of Oregon's ocean resources that is both economically and environmentally sound.