



# Oregon

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## **A Citizen's Guide to the Territorial Sea Plan Amendment Process**

Department of Land Conservation and Development Coastal Management Program

The State of Oregon, with the assistance of a wide range of citizens, communities, and other organizations, is amending its Territorial Sea Plan. After several years of effort the process is at a crucial stage that requires even greater informed feedback from the public.

### **What is the Territorial Sea Plan?**

The 1991 Oregon Legislature amended ORS chapter 196 to establish the Ocean Policy Advisory Council (OPAC) made up of a variety of ocean stakeholders, local governments, and state agencies, and charged it with providing the Governor and state agencies with policy advice on ocean matters. The legislation gave the Department of Land Conservation and Development (DLCD), which includes the state's federally-approved coastal management program, primary responsibility for ocean planning and providing assistance to OPAC. One of OPAC's basic duties was to prepare a Territorial Sea Plan (TSP) for managing the resources and activities in the state's territorial sea from 0-3 nautical miles. The initial version of the TSP was completed in 1994, providing detailed guidance to state and federal agencies in managing uses within Oregon's territorial sea. OPAC did not address many ocean-resource management issues through the initial plan, but was given the ability to amend the TSP when necessary to deal with new concerns as they occurred. The plan can be found on the department's website at: [http://www.oregon.gov/LCD/OCMP/Ocean\\_TSP.shtml](http://www.oregon.gov/LCD/OCMP/Ocean_TSP.shtml).

### **Why is the Plan being amended?**

The need to amend the TSP arose in 2007 when a number of wave energy companies submitted preliminary permit applications to the Federal Energy Regulatory Commission (FERC) to develop energy production facilities within ocean fishing areas off the Oregon coast. At the same time, a system of marine reserves was being proposed for the territorial sea. The resulting high degree of concern in coastal communities and among the fishing industry culminated in a meeting between coastal legislators, fishing industry representatives and Governor Kulongoski. On March 26, 2008, the governor issued Executive Order No. 08-07 directing agencies to "Protect Coastal Communities in Siting Marine Reserves and Wave Energy Projects", and DLCD to "seek recommendations from OPAC concerning appropriate amendments to Oregon's Territorial Sea Plan, reflecting comprehensive plan provisions on wave energy siting projects."

On that same day, the State of Oregon and FERC signed a Memorandum of Understanding (MOU) to "coordinate the procedures and schedules for review of wave energy projects in the Territorial Sea of Oregon and to ensure that there is a coordinated review of proposed wave

energy projects that is responsive to environmental, economic, and cultural concerns while providing a timely, stable, and predictable means for developers of such projects to seek necessary approvals". In the MOU, FERC agreed to "consider the extent to which the proposed project is consistent with the Oregon plan" when issuing a permit or license and to "consider any terms and conditions that are recommended by Oregon under section (10)(a)(3) of the FPA [Federal Power Act] to ensure consistency with the Oregon Plan". So it became important for Oregon to complete the plan as directed by the Governor.

### **What has been done so far?**

**Phase I:** The first step was to create a new chapter for the TSP for regulating and managing ocean renewable energy, and for collecting data and information for siting projects. The new chapter, which includes policies, review and evaluation standards, coordination process, and operational plan requirements for ocean renewable energy development, was completed in November 2009 when the Oregon Land Conservation and Development Commission (LCDC) adopted Part Five of the Territorial Sea Plan for the Development of Renewable Energy Facilities or Other Related Structures, Equipment or Facilities. This phase was accomplished through the recommendations of OPAC and LCDC's Territorial Sea Plan Advisory Committee.

### **What is being done now?**

**Phase II:** The second phase is centered on a public process to conduct a spatial analysis of existing ocean uses and resources to identify and designate specific areas within the territorial sea that may be appropriate for renewable energy development. This process relies on the use of digital data that is being used to conduct an analysis of different types of spatial information. The first step is to map the resources and uses that must be protected according to Goal 19 Ocean Resources and the Territorial Sea Plan, which are: areas that are important to the biological diversity and functional integrity of the marine ecosystem; important marine habitat; and areas important to fisheries, both recreational and commercial. In addition, beneficial uses such as navigation, food production, recreation, scientific research, aesthetic enjoyment and other uses of the seafloor need to be mapped and considered. Maps of resources and uses are used in community meetings to help show where ocean renewable energy sites might or might not be appropriate. In the end, these maps will be incorporated into the TSP.

### **Who is doing the work?**

DLCD and ODFW have conducted the data collection, inventory and analysis with a great deal of input and assistance from the general public, fishermen, coastal communities, and other interested parties and stakeholders. That effort has produced maps and other information that OPAC is now using to develop a recommendation for a draft plan. This process is being guided by the OPAC Territorial Sea Plan Working Group and the LCDC Territorial Sea Plan Advisory Committee, which will be conducting a series of public meetings and work sessions to review maps and analyze the various alternatives and options for specific areas. Information about those events is posted on the OPAC website and at <http://www.OregonOcean.info>.

### **What type of information is being used?**

DLCD has been working with fishermen, scientists, and others to collect a variety of data needed for the public spatial planning work of Phase II. Data projects include:

*Fishing Effort Maps:* The Territorial Sea Plan and Goal 19 Ocean Resources require state agencies to protect areas important to fisheries, including commercial, charter and recreational for different sectors and ports. To apply this protection through the planning process, the state must be able to locate these areas spatially using data derived and contributed by fishermen and fishing communities. These data are being acquired through a series of projects conducted by Ecotrust, a non-profit research and consulting organization, working with coastal port fisheries groups. This effort was initiated by DLCD in late 2008 through a pilot project with the Southern Oregon Ocean Resources Coalition (SOORC) in Coos Bay. This work was facilitated by the Oregon Coastal Zone Management Association (OCZMA) through a contract from DLCD using federal Coastal Zone Management §309 funds. Subsequent work with other fisheries groups was supported with funds from the Oregon Wave Energy Trust (OWET) and Packard Foundation. All the work with fishermen used the methodology and protocols prescribed by the DLCD based on the successful SOORC project. Those protocols were specifically designed to protect the confidentiality of the data from individual fishers while allowing that data to be compiled into aggregate map overlays representing the combined level of effort for each port.

The fishing industry has created a nonprofit organization, Fishermen's Information Service for Housing Confidential Release and Essential Distribution (FISHCRED), to serve as a central decision-making entity to guide, review, and approve of how fisheries data will be presented, utilized, or applied in the TSP and other planning processes. The organization is comprised of a fifteen-member board of directors representing Oregon coastal ports and fishing sectors. The group seeks to ensure that the diverse coastal commercial fishing interests are represented in Oregon's ocean planning efforts. The OPAC and DLCD have also received a map of the fishing grounds submitted by the Pacific City Dorymens Association, Inc., which OPAC will consider as it formulates a draft plan.

*Marine Ecosystem Maps:* The DLCD is working with Oregon Department of Fish and Wildlife (ODFW) and the National Oceanic and Atmospheric Administration (NOAA) to inventory and acquire the data about areas important for the protection of marine ecosystem function, diversity and marine habitat. This work is being funded by a federal Coastal Zone Management §309 grant from DLCD. ODFW will collect the relevant data from state and federal resource agencies and other sources such as regional research programs and universities. The data will be compiled into the Nearshore Ecological Data Atlas or NEDA. This work has been substantially completed and the products assimilated into MarineMap.

*Seafloor Mapping:* In 2009, the state legislature appropriated \$1 million in unused insurance settlement funds from the *New Carissa* shipwreck to the Department of State Lands to conduct seafloor mapping. That investment was matched by \$4 million from NOAA and the mapping work was conducted through a collaborative effort with Oregon State University. The seafloor mapping data will provide detailed information on the bathymetry and geologic makeup of the territorial sea. By the end of 2010, approximately 50% of the state's territorial sea had been mapped with current funds. Additional federal funds are being sought to complete the mapping.

*Recreational Use Survey:* The Oregon Chapter of the Surfrider Foundation worked with Ecotrust to conduct research to identify and locate non-fishing recreational activities, such as ocean sports, whale watching, and other beach related uses.

*Beneficial Uses:* Staff at DLCD are working with a variety of data providers to develop map overlays of existing uses in the territorial sea including navigation channels and aids, dredge material disposal sites, telecommunication cables, pipelines and outfalls. The DLCD also sponsored a project to map the growing number of operational scientific instrumentation, such as transmission cables, data nodes, and other facilities, that have been placed in the ocean to support scientific research and monitoring programs.

*Multi Purpose Marine Cadastre:* A Bureau of Ocean Energy Management, (BOEM) and NOAA Coastal Services Center regional-scale spatial database that includes jurisdictional boundaries, marine habitat, seafloor, existing uses and other data layers for the outer continental shelf. See: <http://www.marinecadastre.gov/default.aspx>.

The state agencies adhered to several basic protocols for the data that was included in the marine resource and use inventories. The first protocol was that the data layers being used to create the map overlays be applicable to an extensive portion of the territorial sea rather than a single area or sub region. Second, the agencies required that any data being collected was obtained using a scientific method that is both objective and repeatable. This is standard quality control practice that ensures that the data and the products derived from using the data, stand up to both scientific and legal scrutiny. Lastly, the data used had to follow the basic Federal Geographic Data Committee (FGDC) standards for geospatial information so that it could be used and distributed by local, state and federal agencies.

### **What are the standards that guide the planning process?**

Statewide Planning Goal 19 Ocean Resources establishes the basic policies and requirements that state agencies must follow when making decisions about the use of the state's territorial sea. The purpose of Goal 19 is "to conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations". To achieve that objective, Goal 19 requires that state and federal agencies must take actions that give a higher priority to the protection of renewable marine resources – i.e., living marine organisms – than to the development of non-renewable ocean resources. The implementation requirements of Goal 19 direct state agencies to protect specific renewable marine resources, including the marine ecosystem and areas important to fisheries, and require a number of factors to be balanced when determining areas suitable for ocean renewable energy development.

### **How is the process being conducted and how can the public participate?**

In Phase I, OPAC created a Territorial Sea Plan Working Group (TSPWG) to develop recommendations for the TSP amendment. The TSPWG conducted a public involvement and review process for Phase II that involved public work sessions in communities from Astoria to Brookings as well as some non-coastal locations this past spring. During those work sessions, the resource data and spatial overlays that the TSPWG is considering, and the analytical and map display tools that are being applied, were presented to the public. The department set up online systems to collect public input and comments, along with those collected at the work sessions and by mail. Those comments are accessible on the website: <http://www.OregonOcean.info>.

The second round of public work sessions will be conducted during February and early March of 2012, after which the TSPWG will present its findings, draft maps and other planning options to OPAC, which will prepare a draft plan amendment and submit it to the LCDC for their consideration. The LCDC will then ask its Territorial Sea Plan Advisory Committee (TSPAC), also formed during Phase I, to conduct public meetings to review the OPAC findings and draft plan amendment, and to develop a set of recommendations or options. The TSPAC meetings will occur later in the spring of 2012. All of the OPAC /TSPWG and LCDC /TSPAC meetings will be open to the public and input from interested parties and citizens will be encouraged throughout the process.

**What will the outcome of the process be and when will it be concluded?**

The LCDC will use the OPAC and TSPAC recommendations to produce a series of maps and other information for inclusion in the TSP. Those maps will have two functions. First, they will identify resources, areas and uses that need to be protected or considered when state and federal agencies are making decisions to allow a new use of the territorial sea. Second they will designate areas where ocean renewable energy development may occur, and under what conditions.

**How to keep informed on the process and where to find more information:**

The DLCD has created a website to provide a calendar of events and meetings and provide information being used or produced at those meetings. See <http://www.OregonOcean.info>.

In addition, DLCD and Ecotrust have developed an interactive on-line mapping system called Oregon MarineMap for use during the public review process. The tool allows anyone to visualize and analyze a variety of marine spatial data. <http://www.Oregon.MarineMap.org>.

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