



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL OCEAN SERVICE  
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT  
Silver Spring, Maryland 20910

JUL 20 1995

Mr. Eldon Hout  
Program Manager  
Oregon Coastal Management Program  
800 NE Oregon Street, #18  
Portland, Oregon 97232

Dear Mr. Hout:

Thank you for your June 20, 1995, request to the Office of Ocean and Coastal Resource Management (OCRM) to incorporate the Oregon Territorial Sea Plan (TSP) into the Oregon Coastal Management Program (OCMP), under the routine program implementation (RPI) provision of the Coastal Zone Management Act (CZMA) of 1972, as amended. OCRM commends the OCMP for its pioneering effort to develop an enforceable, comprehensive plan for management of state ocean resources. The process for creating the TSP has been thorough, far-reaching, and inclusive of diverse interests. Implementation of the TSP policies should improve resource management decisionmaking for actions affecting the Oregon territorial sea.

OCRM has reviewed your request and concurs with your finding that this proposed change is an RPI. OCRM therefore approves the incorporation of the TSP into the OCMP, subject to the following conditions. Federal consistency will apply to these changes upon the date of public notice by your agency of OCRM's approval, as required by 15 CFR 923.84(b)(4). Your public notice of OCRM's approval must include the conditions discussed below.

The TSP identifies the following new, enforceable policies for incorporation into the OCMP:

- 1) Part Two: Making Resource Use Decisions
  - A. Resources Inventory and Effects Evaluation
  - B. Joint Review Panels
  - C. Local Government Consultation
  
- 2) Specified sections of Part Three: Rocky Shores Management Strategy
  - B.1. Rocky Shores Policy Framework: Goal, Objectives, Policies
  - C.1. Mandatory Policies for Site Management
  - C.2. Mandatory Policies for Amending the Rocky Shores Strategy
  - F.2. Management Categories
  - G.1-39. Site Designations and Management Prescriptions

[TSP, p. 35]

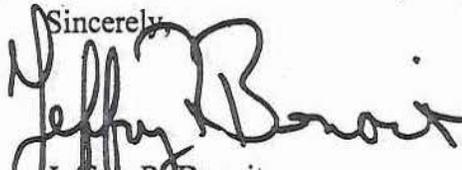


The TSP also references certain other state plans (e.g., the Oregon Ocean Resources Management Plan) and legislation that have not been approved by OCRM. Our approval is limited to the TSP. In particular, we note that of the standards for decisionmaking identified at TSP part 2, section A.2.b (p. 44), only the Oregon Ocean Resources Management Act, as passed in 1987, and Statewide Planning Goal 19 have been approved by this office. Thus, subsequent amendments to the Ocean Resources Management Act, as well as the Oregon Ocean Resources Management Plan and any amendments to its policies by the Land Conservation and Development Commission, have not been approved by OCRM. Federal consistency will apply only to the enforceable elements of the OCMP that have been approved by OCRM. Your public notice of OCRM's approval must state that state laws and plans not previously approved by OCRM are not being approved by this action and are not part of the federally approved OCMP.

Other sections of the TSP provide guidance on how agencies are expected to comply with the TSP (see part 2.A, Resources Inventory and Effects Evaluation, and part 2.C, Local Government Consultation). OCRM lauds Oregon for working with federal agencies to develop this guidance and supports it as a basis for decisionmaking in Oregon's territorial sea. We note, however, that in several instances the TSP provides alternative requirements from those established in NOAA's federal consistency regulations at 15 CFR Part 930.

Among other things, the CZMA and its regulations identify a single state agency for coordination purposes, 15 CFR 930.18, and provide certain minimum requirements concerning the timing and nature of coordination by federal agencies with the state. 15 CFR 930.34. Thus, the local government consultation procedure of the TSP may be followed by federal agencies as a matter of policy but not as a requirement pursuant to the CZMA. Finally, while the TSP identifies information and analysis necessary to evaluate a proposed action, federal agencies may provide a state with a consistency determination and sufficient information in any manner they choose, as long as the federal consistency requirements are met. 15 CFR 930.34, see 15 CFR 930.39. Notwithstanding these conditions, OCRM believes it is beneficial for federal-state coordination to begin as early as practical, and encourages federal agencies to use the procedures of the TSP as an efficient and effective means of ensuring consistency with the OCMP.

Once again, we congratulate you on completion of this notable addition to the OCMP. Please call Patty Dornbusch at 301/713-3121, ext. 182, if you have any questions.

Sincerely,  
  
Jeffrey R. Benoit  
Director