

Oregon Territorial Sea Plan

Adopted December 1, 2000



PART FOUR: Uses of the Seafloor

These amendments were adopted by the Land Conservation and Development Commission on December 1, 2000, based on a recommendation from the Ocean Policy Advisory Council, January 28, 2000. These amendments are consistent with administrative rules adopted by the Oregon State Land Board in August, 1999, governing easements for submarine fiber-optic cables.

A. TELECOMMUNICATION CABLES, PIPELINES, AND OTHER UTILITIES

1. Background

Oregon's coast is a prime landing zone for fiber-optic telecommunication cables that cross the ocean floor from sites around the Pacific Rim. Other utilities, such as natural gas pipelines, may eventually be routed across Oregon's Territorial Sea bed. Proper placement of utility easements and installation of fixtures is required to avoid damage to or conflict with other ocean uses, such as commercial fishing, and to reduce or avoid adverse effects on marine habitats.

State agencies, such as the Division of State Lands, the Department of Fish and Wildlife, the Oregon Parks and Recreation Department, and the Department of Land Conservation and Development, need clear policies and standards for reviewing and approving the routing and installation of utilities on the seafloor of Oregon and adjacent federal waters.

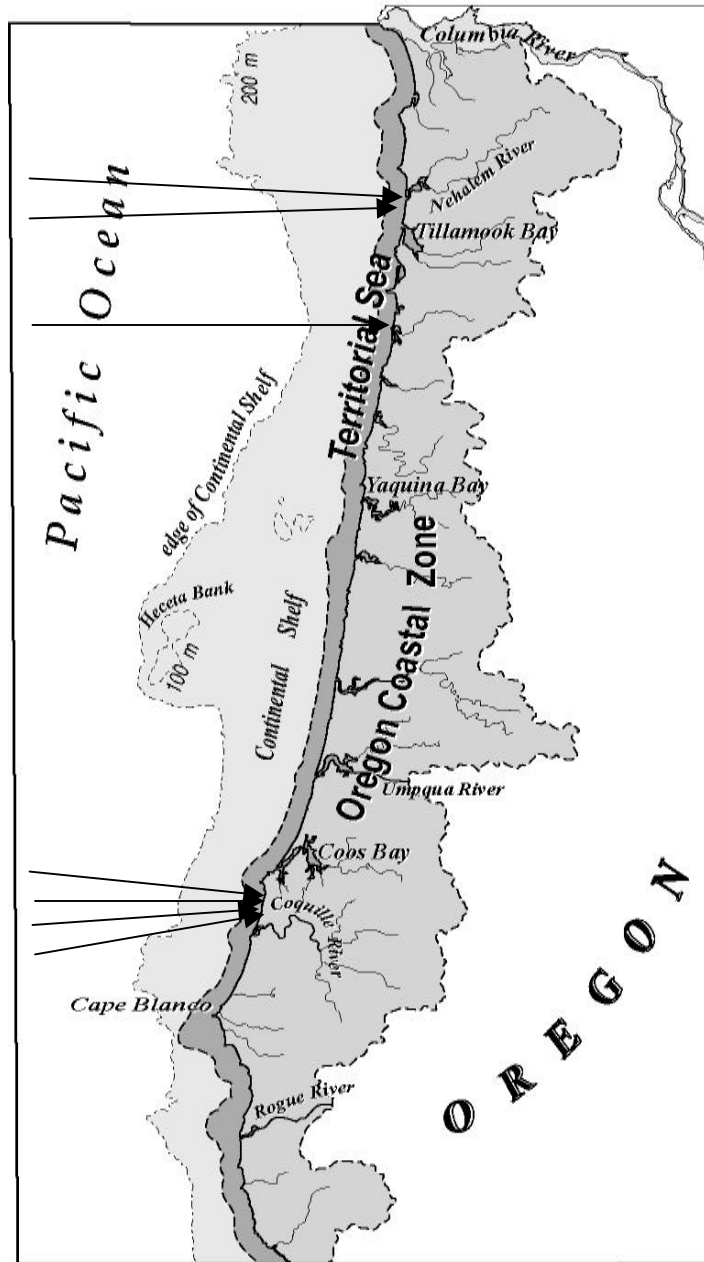
[NOTE: In approving these plan policies for submittal to the Land Conservation and Development Commission in January, 2000, the Ocean Policy Advisory Council approved the addition of explanatory background text, maps, and illustrations prior to publication of the amended plan. This background material will in no way affect the mandatory policies of this section.]

Oregon Coast Fiber Optic Cable Landings

WCI-Alaska Northstar 1999
 Southern Cross 2000
 Nedonna Beach

North Pacific -1 1991
 Pacific City

China-US Segment 19 2000
 TPC-5 North 1995
 TPC-5 South 1995
 China-US Segment E1 2000
 Bandon



NOTE: The following policies and implementation requirements are mandatory. Decisions of state and federal agencies with respect to approvals of easements or installation of utilities on the seafloor in Oregon's territorial waters and ocean shore must conform with them as required in the Oregon Territorial Sea Plan.

2. Policies

When making decisions to approve routing, placement or operation of a seafloor utility or fixture, state and federal agencies shall:

- a. Protect ocean fisheries and other ocean uses from any adverse effects that may be caused by installation or operation of cables, pipelines, or other fixtures by requiring that such routing, placement, or operation:
 - 1.) avoid conflicts between commercial or recreational fishing or other ocean-use activities and utilities, as a first priority;
 - 2.) reduce any adverse effects when conflicts cannot be avoided; and
 - 3.) mitigate for adverse effects after first reducing them to the minimum practicable.
- b. Protect marine habitat, fishery areas, and other marine resources as required by Statewide Planning Goal 19, Ocean Resources and the Oregon Territorial Sea Plan; and
- c. Promote direct communication between affected ocean users to resolve or avoid conflicts and require written agreements among the parties when necessary to ensure communication and memorialize agreements.

3. Implementation Requirements

When approving the routing, placement, or operation of a seafloor utility, state and federal agencies shall avoid or reduce conflicts or adverse effects on other ocean users through the use of one or more of the following:

a. Burial.

- 1.) In state waters: All telecommunication cables, pipelines and other fixtures, crossing or affixed to state lands of the territorial sea lying seaward of Extreme Low Water (which is the seaward boundary of the Ocean Shore Recreation Area) shall be buried so as to ensure continuous burial unless the approving state agencies make findings that burial cannot be practically achieved and all affected parties agree that adverse effects of not burying the cable, pipeline, or fixture have been reduced, avoided, or mitigated to the extent practicable

- 2.) In federal waters: Decisions to permit burial of cables, pipelines, or other fixtures crossing or affixed to the seabed of the outer continental shelf (beneath federal waters) to a depth of 2,000 meters off Oregon will be deemed consistent with this state policy. When a federal agency does not require burial in waters to this depth, the state may concur that the decision is consistent with state policy only if the federal agency makes findings that burial cannot be practically achieved and all affected parties agree that adverse effects of not burying the cable, pipeline, or fixture, have been reduced, avoided, or mitigated to the extent practicable.
- 3.) Burial shall be certified by the contractor to the easement-granting agency.
- 4.) The easement-granting agency shall require that cables, pipelines, or other utility fixtures shall be inspected periodically and after any major geologic event, such as subduction-zone earthquake to ensure continued burial.

b. Communication and coordination.

Written agreements between the applicant and fishers or other users shall be required by the easement-granting agency as evidence of communication and coordination. Such agreements may coordinate work, determine routing, identify routes, respond to emergencies, provide for mitigation of adverse effects, or specify procedures for on-going communication. Written agreements shall specify how fishers or other users and the applicant will resolve disputes over lost fishing gear, damage to seafloor utilities, or liability for such actions.

c. Controlling the location of utilities.

Locations for new cables, pipelines, or other utilities shall conserve areas available to ocean fisheries, prevent or avoid conflicts with other uses, protect marine habitats, and minimize adverse effects on other public resources of the seafloor or ocean shore. New rights of way may be required to be located as close to existing rights of way as possible or with sufficient capacity to enable future expansion within the approved right of way.

d. Single point-of-contact. The Division of State Lands shall coordinate approvals of easements and permits in consultation with the Parks and Recreation Department, the Department of Fish and Wildlife, the Department of Land Conservation and Development, the Department of Geology and Mineral Industries, and coastal local governments, as appropriate. The Department of Land Conservation and Development will use its authority under the federal Coastal Zone Management Act to review federal permits to ensure that they are consistent with state requirements.