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The Oregon ocean resources management program: a state-level ocean management initiative

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ABSTRACT

The state of Oregon has instituted an ocean resources management program within state government. The program, enacted by the state legislature in 1987 and amended in 1991, is a component of the statewide land-use planning program and coastal management program developed in the early 1970s. Politically the ocean program has roots in strong public interest in protecting coastal resources from destruction or degradation. This paper reviews the history of the development of the program, describes key elements, highlights some distinguishing program characteristics, sketches the ocean governance relationships that now exist off Oregon and lists some practical examples of what the program has accomplished. Finally, the paper includes some observations that may provide perspective for others contemplating a state ocean management program. © 1997 *Elsevier Science Ltd.*

1. BACKGROUND

1.1 State and federal ocean jurisdictions

Oregon and nearly all coastal states[1] in the United States have jurisdiction[2] over the seabed and its resources seaward to three geographical (also called nautical) miles or further if offshore rocks or islands provide a more seaward point for measurement.[3] This 3-mile wide ocean area is commonly known as the 'territorial sea'[4] and is referred to as such in this paper.[5] The 1972 US Coastal Zone Management Act (16 USC 1453) states that, for coastal management purposes, the coastal zone extends 'seaward to the outer limit of the United States territorial sea.'

Thus, Oregon's coastal zone management authority applies to the entire ocean area under state jurisdiction. In addition, other federal laws provide Oregon (and other coastal states) with varying degrees of authority or management influence over certain ocean resource activities beyond the state's seaward coastal zone boundary.[6] The federal government has jurisdiction over the seabed beyond state waters to the limit of the 200-mile Exclusive Economic Zone. Much of this area of federal jurisdiction is known as the 'outer continental shelf' (OCS), a legally-derived term that is not entirely coincident with the actual geomorphic feature known as the continental shelf.[7]

1.2 State comprehensive planning framework

Oregon, unlike most coastal states, has developed a comprehensive ocean resources management program as part of the Oregon Coastal Management Program (OCMP). The OCMP began as a coastal planning initiative by the 1971 legislature[8] and was later folded into the statewide land-use planning program enacted in 1975.[9] The statewide land-use program (and coastal management program) is based on 19 Statewide Planning Goals developed and adopted by the Land Conservation and Development Commission, as directed by the legislature. The commission uses these goals as standards for evaluating and approving the comprehensive land-use plans and implementing ordinances of all city and county governments. State agencies must also meet these goals when carrying out their programs.

Four of the statewide planning goals are specific to coastal resources and are derived from the work of the earlier coastal planning commission (The Oregon Coastal Conservation and Development Commission—OCC and DC): (1) Goal 16—Estuarine Resources; (2) Goal 17—Beaches and Dunes; (3) Goal 18—Coastal Shorelands; and (4) Goal 19—Ocean Resources. The OCMP is a 'networked program' that incorporates the state approved plans and ordinances of coastal local governments, as well as state agency programs and authorities regarding such resources and uses as fish and wildlife, water quality, removal-fill, public access, etc. The OCMP received federal approval in 1977 from the National Oceanic and Atmospheric Administration pursuant to the 1972 Coastal Zone Management Act.

2. A BRIEF HISTORY OF OREGON'S OCEAN PROGRAM

Oregon's ocean resources management program arose from a confluence of two streams of circumstances: (1) external forces that provided the impetus and larger geo-political context for legislative action; and (2) internal factors that provided the institutional readiness to promote an ocean management program and the political opportunity to establish it in state law.

2.1 External forces

Although not fully appreciated at the time, the presidential proclamation of 10 March 1983, establishing a 200-mile United States Exclusive Economic Zone (US EEZ),[10] was a germinal event that resulted 4 years later in the state's ocean resources management program. President Reagan's proclamation followed his rejection of the Law of the Sea Convention primarily because of objections within the Administration to deep-seabed mining provisions. It served notice to the world that the United States was establishing its sovereign rights to exploit the seabed minerals within this 200-mile zone.[11] Less than 3 weeks later, the Reagan Administration followed this proclamation with a Notice of Intent to prepare an environmental impact statement for the leasing of a large area of the deep-sea floor known as the Gorda Ridge off southern Oregon. This area had recently been discovered to be a sea floor spreading center that might contain so-called polymetallic sulfide minerals high in zinc, copper, lead and other 'strategic and critical' minerals.[12] Although unexplored for minerals, the Gorda Ridge happened to be the only such sea floor spreading center entirely within the newly-proclaimed US EEZ and thus was an appropriate location to demonstrate US intentions with regard to mineral development in the EEZ.

The Gorda Ridge proposal, later dropped for lack of industry interest,[13] also attracted the interests of the federal government and private industry in the potential commercial value of placer sand deposits in shallow water off Oregon's south coast. Together, these two marine mineral inquiries galvanized the state to examine its ability to effectively participate in the federal process or implement proper state regulations for marine mineral exploration and development.

During the same time period, public debate over an aggressive federal OCS oil and gas leasing program heightened state–federal tensions over the role of states in controlling ocean resource development. The Oregon Coastal Management Program assisted the Governor in coordinating the state's response to federal OCS oil and gas leasing proposals. Although federally permitted oil and gas exploration had previously taken place off the Oregon coast in the late 1960s, the 1969 Santa Barbara, California, oil platform blowout heightened public sensitivity to this issue. Public concerns about federal oil and gas development created a political climate favorable to strong state efforts to protect ocean resources. The Coastal Management Program gained valuable experience and expertise in ocean resource management during this time.

2.2 Internal forces

The process of responding to federal EEZ and OCS initiatives revealed to the author and others in the Oregon Coastal Management Program that Statewide Planning Goal 19, Ocean Resources, notwithstanding, state agencies lacked the capacity to address ocean management concerns that were likely to arise. These concerns related to effects on marine water quality from new or expanded ocean discharge of municipal sewage from coastal cities, increased recreational use of shoreline intertidal areas, and harvest of kelp, sea-urchins and other species from rocky reef areas. In addition, there was a lack of overall understanding of basic ocean conditions and resources off Oregon in a form accessible to the public and managers.

The OCMP undertook two projects to strengthen internal capacity. One was the preparation and publication of the *Oregon Oceanbook*,[14] a layman's guide to the ocean and marine resources off Oregon. Development of this publication involved many of the leading marine researchers in academia and resource agencies in the region and thus resulted in an informal network of contacts among the marine science community. This project was supported by federal funds under the Outer Continental Shelf Participation Program administered by the federal Office of Ocean and Coastal Resource Management.

For the second project, the OCMP contracted with the Oregon Sea Grant Extension and the University of Oregon Ocean and Coastal Law Center to analyze state laws, programs and management capacity for a variety of ocean resources and uses.[15] Completed in 1986, the study identified a number of management gaps, found that the state was ill-prepared to address significant ecological and economic issues that would arise from major ocean development proposals, both within state waters and on the federal OCS, and made recommendations for addressing these problem areas. The study thus provided the OCMP with a clear basis for improving the state's ocean management capability and also helped to build important relationships between the OCMP and the academic research community. This project used a combination of funds from the federal OCS Participation Program and the Coastal Zone Management Program, both administered by the Office of Ocean and Coastal Resource Management.

Proclamation of the 200-mile EEZ also resulted in activity during 1985 and 1986 by two multi-state organizations in which Oregon participated. The Coastal States Organization, a non-profit organization of 35 coastal states, territories and possessions of the United States, completed a study of the role that coastal states should play in development of the new US EEZ and concluded with a proclamation that is a 'clear assertion of the rights and responsibilities that the coastal states have in the protection, conservation, and development of the US EEZ resources.'[16] The Western Legislative Conference (WLC), through an Ocean Resources Committee made up of legislators from all Pacific states and territories, began a study that revealed the range of ocean resource management issues faced by Pacific states and territories, especially in light of the new EEZ. The WLC report urged the Pacific states to 'establish comprehensive, long-term ocean policies asserting strong state involvement in ocean resource activities.'[17] The author and other OCMP staff assisted in these efforts, both of which helped provide a policy context for ocean management activities by Oregon.

A key member of the Western Legislative Conference Ocean Resource Committee was Oregon State Senator Bill Bradbury, whose district covered the southern half of the Oregon coast. In 1985 Senator Bradbury requested assistance from the author, then the state's Outer Continental Shelf Program Coordinator, in working with the WLC committee on ocean management issues of concern to Oregon. In late 1986, with results of the Territorial Sea Management Study[15] in hand, Senator Bradbury and the author worked together to draft comprehensive ocean resource management legislation. Oregon Senate Bill 630 was introduced in February 1987 by Senator Bradbury and 33 co-sponsors and moved through the legislative process under his guidance as Senate Majority Leader.[18] A new governor, Neil Goldschmidt, and his staff were supportive of the legislation and it was enacted in late June 1987 with a total of two dissenting votes.

2.3 Legislative policies

The Oregon Ocean Resources Management Act of 1987, now Oregon Revised Statutes (ORS) Chapter 196.405–515, included overall ocean management policies and established a task force charged with developing a plan for managing ocean resources off Oregon within the 200-mile wide US Exclusive Economic Zone. Although the legislation referred to a second phase of planning for the Territorial Sea, it did not specify either content or process. The legislature was more interested in establishing the broader scope of long-term ocean management needs for the state and in dealing with federal OCS oil and gas initiatives.

The legislature adopted findings that clearly referred to the larger ocean policy context and legal framework post-EEZ which within the state sought to operate. These include such statements as:

> 'existing federal laws ... recognize the interests of coastal states in management of ocean resources in federal waters and provide for state participation in ocean resource management decisions (ORS 196.415(5))'

and

> '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 (ORS 196.415(6)).'

The legislature declared as policy to

> 'assert the interests of this state as a partner with federal agencies in the sound management of the ocean resources within the United States.'

Thus, the legislation asserted the importance of the larger marine environmental and policy context and reflected the philosophy of both the Western Legislative Conference report and the Coastal States Organization study. The legislature expressed the state's intention to assess and plan for the management of resources within federal as well as state waters, but did not assert ownership or jurisdiction over areas or resources in federal waters. This concept later found expression in the Ocean Resources Management Plan (discussed below) as the Oregon Ocean Stewardship Area.

2.4 Legislative amendments

The 1991 Oregon Legislature made two fundamental changes to the state's ocean law based on recommendations of the Ocean Resources Management Task Force created by the original 1987 statute. First, it established a permanent Ocean Policy Advisory Council in the Office of the Governor and second, required a plan for the state's territorial sea.

2.5 The role of local governments in ocean resource management

The 1987 legislation also dealt with the issue of local government responsibilities for planning for or managing ocean resources. Although county boundaries extend seaward from shore to the limit of state jurisdiction, no coastal county or city government had adopted enforceable policies or regulations for ocean resources as part of their comprehensive plans required under the statewide land-use planning program. A few coastal counties had adopted general policies related to the importance of ocean resources and their conservation. The legislation made clear[19] that, boundaries notwithstanding, planning for and management of ocean resources was to be conducted pursuant to the new state-level ocean resources management program.

3. ELEMENTS OF OREGON'S OCEAN RESOURCES MANAGEMENT PROGRAM

The Ocean Resources Management Program (ORS 196.405–515) contains five elements that have institutionalized within state government a capacity, both substance and process, to plan for and manage ocean resource uses.

- *Applicable parts of Oregon's coastal management program*. The OCMP includes many requirements that pertain to the management of ocean resources. In summary, these are:
- Statewide Planning Goal 19, Ocean Resources (see below);
- other Statewide Planning Goals for coastal resources (e.g. Goal 16, Estuarine Resources, and Goal 18, Coastal Shorelands);
- local government plans that affect ocean resources (principally land uses adjacent to estuaries or in uplands along the ocean shore); and
- various state agency programs and authorities (e.g. fish and wildlife laws, removal-fill laws, water quality regulations, etc.).

These requirements, particularly those of Goal 19, ensure a strong programmatic link with the overall OCMP and complete a framework for integrated coastal management from the crest of the Coast Range Mountains (the landward boundary of the state's coastal zone) to the seaward extent of state jurisdiction.

- *The Ocean Policy Advisory Council*. The 1987 legislation created a 21-member task force that prepared the Oregon Ocean Resources

Management Plan (see below). The current 23-member body was created by 1991 amendments to the ocean statute following the findings of the task force that a permanent ocean coordinating and policy body was needed. The Council, like the task force, is chaired by the Governor's Assistant for Natural Resources, and includes directors (or designees) of seven state agencies; representatives of coastal city and county governments; coastal Indian tribes; higher education (the Sea Grant Program director); commercial and recreational fishermen; other recreationists; ports; environmental groups; and the public-at-large. The Council provides a broadly representative forum for discussing ocean-use issues and formulating policy advice to the Governor and state agencies. The Council's consensus-based style encourages full debate and cooperative problem-solving.

- *The Oregon Ocean Resources Management Plan,* 1990. The policies and recommendations of the Oregon Ocean Resources Management Plan (Ocean Plan, described below) articulate state interests in the ocean over the entire continental margin, provide a policy framework for the Territorial Sea Plan, and a basis for providing policy advice to the Governor. The Ocean Policy Advisory Council has begun (spring 1996) to review these policies in light of current needs and new information.
- *The Territorial Sea Plan (and subsequent amendments).* This plan (discussed below) contains enforceable standards for state and federal agency programs within the state's territorial sea. The legislature recognized the difficulty of preparing such a plan and so required that an initial territorial sea plan be completed by 1 July 1994 and then added to over time.
- *State agency coordination requirements of the statewide land-use program.* These requirements[20] ensure that state agencies carry out or act consistently with the provisions of the Territorial Sea Plan and that their ocean-related programs are coordinated through the Council.

3.1 Statewide Planning Goal 19, Ocean Resources

Statewide Planning Goal 19, Ocean Resources, has been the state's primary policy for ocean resource management since 1977. This goal resulted from coastal planning work initiated by the 1971 Oregon Legislature (see Section 2, above) that, among many other elements, included draft policies and recommendations for protecting 'continental shelf resources.' After the work of the OCC and DC was joined to the statewide land-use planning program in 1975, these draft ocean-related policies were combined into one of the four coastal statewide planning goals as Goal 19, Ocean Resources.

Goal 19 has three principal parts and contains a number of complex policy concepts and standards. Part One, the overall requirement, is:

> 'To conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf. All local, state and federal plans, policies, projects and activities which affect the territorial sea shall be developed, managed and conducted to maintain, and where appropriate restore, the long-term benefits derived from the nearshore oceanic resources of Oregon. Since renewable ocean resources and uses, such as food production, water quality, navigation, recreation, and aesthetic enjoyment, will provide greater long-term benefits than nonrenewable resources, such plans and activities shall give clear priority to the proper management and protection of renewable resources.'

The standard of giving 'clear priority to the proper management and protection of renewable resources' (over non-renewable resources) was a general policy that the state employed throughout the 1980s in response to federal proposals for leasing for marine minerals and oil and gas on the outer continental shelf. These policy requirements were embodied in legislative policy in 1987.

In Part Two, Goal 19 contains an overall standard for information and analysis from state and federal agencies that undertake actions or projects in or affecting ocean resources. The goal requires these agencies to:

> 'develop inventory information necessary to understand the impacts and relationship of the proposed activity to continental shelf and nearshore ocean resources' and that 'the inventory shall be sufficient to describe the long-term impacts of the proposed action on resources and uses of the continental shelf and nearshore ocean.'

Detailed requirements for meeting this information and analysis standard were developed by the Ocean Policy Advisory Council and are included in Part II of the Territorial Sea Plan adopted 1994.

In the Part Three, the goal spells out in some detail requirements for implementing the goal, including lists of state agency authorities of 'special concern' and specific requirements for a number of ocean resources and uses. However, the goal does not make clear (nor is there other administrative guidance) how agencies are to actually apply these more detailed requirements to achieve the standard of 'proper management'. Furthermore, the goal does not provide guidance on making management decisions among and between competing uses of renewable resources rather than between renewable and non-renewable resources.

3.2 The Oregon Ocean Resources Management Plan

The 1987 legislature conceived of the Oregon Ocean Resources Management Plan (Ocean Plan) as the first, and most broad, of two planning phases for ocean resources off Oregon. The Ocean Resources Management Task Force devoted 2.5 years of public discussion, fact-finding and debate to completing this plan.[21] The Ocean Plan contains three general parts: (1) background information on marine environmental parameters and ocean resources off Oregon and the economic and social uses of these resources; (2) policies and recommendations for addressing a number of ocean resource use issues; and (3) recommendations to the legislature and state agencies for implementing the plan and improving management programs.

The Ocean Plan includes policies and recommendations on the following topics:

- *Ocean resources stewardship*, including delineation of an Ocean Stewardship Area (from the shore seaward to the edge of the continental margin) as an area of primary state ocean management interests, ocean resources conservation, habitat protection and criteria for designating critical habitat;
- *Ocean fisheries*, including criteria for identifying important fishery areas;
- *Marine birds and mammals*, including criteria for identifying sensitive marine bird and mammal habitats and a list of 33 such habitat areas;
- *Intertidal plants and animals*, including criteria for designating Marine Gardens;
- *Recreation/cultural resources*;
- *Marine water and air quality*;
- *Oil and gas*, including a prohibition on such activities in state waters and restrictive, process-oriented policies for the federal OCS;
- *Oil spills*, prevention and response;
- *Marine minerals*, including policies on exploration and development of near-shore placer mineral deposits in relation to important fishery areas and sensitive seabird and marine mammal habitats.

Although the Oregon Land Conservation and Development Commission adopted the Ocean Plan as a part of Oregon's Coastal Management Program (pursuant to legislative directive), the plan was not submitted to the federal coastal zone management agency for approval under the federal Coastal Zone Management Act. The highly-charged political atmosphere between coastal states and the US Department of the Interior over OCS oil and gas leasing during the Reagan (1980–1988) and Bush (1988–1992) administrations made approval of the plan highly unlikely.

The principal outcomes of the Ocean Plan, however, were the key recommendations that the legislature establish a permanent ocean policy advisory council in the Office of the Governor, that a more specific plan for the state's territorial sea be drafted and adopted, and that issues identified in the Ocean Plan should provide a starting place for ongoing ocean planning and management efforts.

3.3 The Territorial Sea Plan

The Ocean Policy Advisory Council completed a management plan for the state's 1000-mile territorial sea and ocean shore in August 1994.[22] The plan was added to the state's Coastal Management Program in December 1994 by the Land Conservation and Development Commission, and was approved as an amendment to Oregon's federally-approved coastal management program in June 1995 by the Office of Ocean and Coastal Resources Management (OCRM) in the National Oceanic and Atmospheric Administration.

The initial plan contains three parts:

1. A description of the relevant state ocean laws, coastal policies and programs, and previous ocean plans as well as applicable federal laws and programs affecting state ocean resources.
2. Detailed requirements and procedures for completing resource inventories and evaluating the effects of proposed ocean-related projects, establishing Joint Review Panels for complex projects, and consulting with local governments on major ocean development; and
3. A detailed rocky shores management strategy, based on an extensive inventory and assessment of all rocky shore areas.[23] The plan states goals and policies, establishes rocky shore management categories (Marine Garden, Research Reserve, Habitat Refuge, and Marine Shore), designates rocky shore sites into these categories, and provides site-specific management prescriptions. Because public awareness and information are identified as crucial management techniques, a public outreach and interpretive plan[24] for rocky shores was developed via a consultant to provide a blueprint for developing and coordinating interpretive activities of various state and federal agencies at coastal sites.

4. ESSENTIAL CHARACTERISTICS OF THE OCEAN PROGRAM

Five factors have been essential to the structure and function of Oregon's program.

4.1 The program was established in law by the Oregon legislature

The legislative mandate provided a political legitimacy with the public and ocean user-groups that likely would not have existed had the program been established unilaterally by a state agency or consortium of agencies. It also created tangible performance expectations among state agencies that proved important in focusing attention and resources on the program. A previous attempt by the coastal management agency to create an inter-agency team to develop overall ocean policies was inconclusive because it lacked this strong imperative.

4.2 The Ocean Program operates at the highest executive level

The program is not the child of one agency or buried beneath layers of agency structure. Instead, the legislation makes the Governor or Governor designee a member of the Council and requires the Governor to appoint the Council chair and all non-agency members. The Ocean Policy Advisory Council is assigned to the Office of the Governor, although staff assistance is in the state coastal management agency, the Department of Land Conservation and Development. This linkage to the Governor's Office confers a certain high status on the Council; familiarizes the Governor's staff with ocean management issues; provides direct policy access to the Governor; recognizes that although management of state ocean resources may be, ultimately, a matter of state agency action, there are many 'publics' with legitimate interests that the Governor must accommodate; and reduces agency rivalries that might otherwise occur if the Council were housed in an individual resource agency.

4.3 The program is an extension of the existing coastal management program

The existing OCMP is a networked program composed primarily of state and local government programs and authorities under the umbrella of the statewide land-use program. Instead of creating a new agency and perhaps add to coordination problems, the legislation purposely attached the ocean program to the coastal management program. By doing so, the legislature ensured that the state could eventually take advantage of the federal 'consistency' provisions provided by 1990 amendments to the federal Coastal Zone Management Act when the Territorial Sea Plan received federal approval.

4.4 The program is implemented in phases

The legislature recognized that it would not be possible to do everything all at once in building an ocean program. Hence, the legislation specified a phased process that proceeded from a broad plan for ocean resources and uses within the entire 200-mile wide US Exclusive Economic Zone off Oregon to a more focused initial plan for state waters followed by amendments over time. This approach has allowed the state to first consider and respond to ocean resources and uses in the broad oceanic ecosystem and then address site-specific management issues within the overall geographic and policy context.

4.5 The program has a specific goal of a state–federal partnership for managing resources

The legislature recognized that state and federal management interests transcend the jurisdictional boundary of 3 geographic miles and that a state–federal partnership across the ocean area of interest to Oregon is essential to sound planning and management. While it could not require federal agency participation in the state process, the legislature required the Council to invite federal agency participation. A number of federal agencies, including the US Fish and Wildlife Service, Bureau of Land Management, and Minerals Management Service, have been actively involved. Others, such as the National Ocean and Atmospheric Administration (NOAA) Office of Ocean and Coastal Resource Management, have supported the state's program with funding.

5. GEOGRAPHIC SCOPE OF STATE AND FEDERAL OCEAN MANAGEMENT INTERESTS OFF OREGON

The Oregon Ocean Resources Management Plan identifies an Ocean Stewardship Area that is of direct economic and ecological significance to the state. The area extends from the ocean shore seaward to the toe of the continental slope (between 50 and 80 miles offshore) and encompasses both state waters within 3 geographic miles of the coast as well as waters under federal jurisdiction beyond. Within this ecologically defined area, the Ocean Plan states that Oregon will assert its management interests regardless of jurisdictional boundaries.

The Ocean Stewardship Area was delineated based on a review and analysis of scientific information on the distribution and abundance of various marine fish, invertebrates, seabirds and marine mammals during their life-stages,[25,26] information on the location and importance of oceanographic features such as the Columbia River Plume, the location and influence of the California Current and seasonal upwelling; and ocean-use information such as fishery catch records,[27] patterns of recreational use of nearshore areas and locations of intra-coastal marine transport lanes.

Delineation of this area was also based on an analysis of federal laws that provide states with the opportunity to participate with federal agencies in ocean resource management decisions. These laws include the Outer Continental Shelf Lands Act, the Coastal Zone Management Act, the Magnuson Marine Fisheries Conservation Act, and Deepwater Ports Act.

By asserting an area of ocean management interest that extends beyond state boundaries, Oregon's ocean program reveals how state and federal ocean management interests are related across the entire coastal zone and ocean area. These various management relationships, while they overlap to some extent, can be described in five bands of varying width roughly parallel to each other and to the coastline from the crest of the coastal watersheds to beyond the US EEZ boundary.

5.1 The watershed portion of Oregon's coastal management zone (from the crest of coastal mountains to the ocean shore)

Oregon's landward coastal zone area is watershed-based and encompasses the entire watersheds of all but three rivers (Columbia, Umpqua and Rogue Rivers) that drain into the Pacific Ocean along the Oregon coast. This is the area commonly thought of as 'the coastal zone', that is, the terrestrial area subject to state laws concerning resource use, land use, pollution control, etc.

5.2 The state's territorial sea

The territorial sea is the so-called 'wet side' of Oregon's coastal zone and is the portion of the Ocean Stewardship Area that is under state jurisdiction. Within this ocean area of approximately 1200 miles the state's coastal management program is the controlling ocean management framework, as described above.

5.3 Federal waters within the Ocean Stewardship Area

This area extends from the state's seaward boundary to the toe of the continental slope in waters 2500–3200 meters deep, approximately 40–60 miles seaward of the coastline. Although under federal jurisdiction, this is part of Oregon's Ocean Stewardship Area and is thus of direct management interest to the state.

5.4 The area seaward of the continental margin within the 200-mile US EEZ

The area between the toe of the continental slope and the 200-mile boundary of the US EEZ is the deep-ocean floor, an area under federal jurisdiction within which the state has determined it has very little, if any, management interest. This zone is approximately 140–160 miles wide.

5.5 The international area seaward of the US EEZ

This area is generally beyond direct federal jurisdiction, although the federal government may maintain certain law enforcement and military activities in this area pursuant to international ocean law. Both federal and state fish and wildlife agencies have interests in this international area for conservation of certain migratory fish stocks, such as salmon and tuna, marine mammals and seabirds.

6. PRACTICAL EXAMPLES OF THE PROGRAM AT WORK

The Ocean Program has been instrumental in resolving several ocean-use issues that benefitted from inter-agency solutions. The Ocean Policy Advisory Council provided a necessary neutral forum for discussing and resolving four issues:

1. Protection of marine wildlife habitat at Three Arch Rocks National Wildlife Refuge, one of the state's premier marine wildlife refuges. The state's boating agency enacted a 500-foot wide seasonal boating closure area around these popular and easily-accessible rocks in response to a Council request that was based on a study of disturbance to seabirds and marine mammals from boating activities and aircraft overflight.
2. A commercial kelp leasing program for state waters. An inter-agency working group prepared a science-based leasing and

harvest program for kelp resources based on the Council's emerging standards and policies for ocean resource-use decisions and the kinds of information that would be required for leasing management.

3. Developmental fisheries. The Council worked with the marine fisheries agency to coordinate the standards and policies for ocean resource-use decisions with an innovative new fisheries program that encourages the development of small-scale, under-utilized fisheries on the Oregon coast.
4. Overuse of rocky intertidal areas. Problems of damage to rocky shore areas were highlighted during the Ocean Plan process. The Ocean Policy Advisory Council developed a rocky shores strategy in the Territorial Sea Plan to address a variety of human-use issues in rocky shore areas. This strategy incorporates high-profile public-use 'Marine Garden' areas, intended to accommodate crowds in a more intensely-managed situation, while protecting other areas as Habitat Refuges or Research Reserves and providing general recreation opportunities at less-used Marine Shore areas.

Each of these four situations was complex and required the involvement of several state and federal agencies and interested private parties. In each instance a principal or 'lead' agency could have taken action on its own with minimum consultation and coordination. However, all agencies have recognized the importance of the collaborative Council process in fully scoping issues, exposing a range of possible solutions and obtaining support for agreed-upon action.

7. OBSERVATIONS

Oregon's 7-year experience with ocean management offers lessons for undertaking ocean policy development and management programs in other states or at the national level.

7.1 Ocean planning and management requires a program, not just a plan

A program allows agencies to build internal expertise, institutional capacity and long-term budget or program commitment to a continuing process of planning, action and refinement. Because agency budgets and work programs must seek legislative appropriations or external funding to supply even modest internal program capability, it is difficult to develop a plan without the program capacity to support it.

7.2 Ocean planning and management takes time

Research and field work in uncertain ocean conditions often takes longer than expected. Meetings and coordination with interested parties takes vast amounts of time and is labor intensive. It takes time for the process and the substance of the program to percolate into the public consciousness and for issues to ripen and solutions to jell. New programs and management concepts need time to build a track record, be incorporated into a legislative context and into the daily fabric of agency programs.

7.3 Ocean planning and management takes technical resources, money and expertise

As with many natural resource areas, information and expertise are needed to support policy. However, even relatively small funding amounts can be instrumental in acquiring significant information if creatively and cooperatively used. State agencies, in particular, need to use funding to build technical capacity within staff so that they have the capability and incentive to be involved rather than relying on consultants to obtain the information and prepare a report.

7.4 Ocean planning and management takes participation of all affected agencies

The absence of even one key agency can jeopardize or diminish an otherwise successful effort. However, it is unrealistic to expect agencies to voluntarily accommodate significant new program loads and take on potential political liabilities without incentives. Three kinds of incentives appear appropriate and necessary:

- *Money* to provide agencies with the ability to hire staff, add to program loads, obtain information and acquire technical capability. Money means keeping or adding programs the agency may otherwise not have;
- *Mandates* to require participation through a formal structure (e.g. 'a seat at the table');
- *Incentives* that meet expectations and produce rewards (such as the 'federal consistency' provision of the 1972 Coastal Zone Management Act that was a clear 'reward' to states for undertaking a coastal management program).

7.5 Ocean management programs must respond to the differences between state and federal governments

Unlike more insulated federal programs, state programs must be sensitive to local politics. A 'top-down' approach that mandates certain results will be inappropriate, ineffective and even counter-productive if the public does not understand or support the management effort. The political culture, administrative structure and public expectations may vary widely within and among coastal states. The federal Coastal Zone Management Program must remain sufficiently flexible to serve as the administrative vehicle by which states and the federal agencies can build successful ocean management programs.

7.6 Ocean planning and management, like all politics, is local

Overall policies and management programs must eventually work in rock-by-rock, cove-by-cove, reef-by-reef situations where the abstract world of policies and planning meets the real world of birds, fish, SCUBA divers, fishermen, tourists and local residents. This is the level at which the management program must make sense and meet real needs.

7.7 A certain alignment of political stars may be helpful

Because ocean management issues are not, generally speaking, very high on the agenda of state or federal legislative bodies, a fortuitous alignment of political circumstances and players, rather than carefully crafted position papers, may be the key to the political support necessary to enact the kind of ocean management program envisioned by policy analysts. Certain stars in Oregon's political firmament lined up in 1986 and 1987 to make this program possible. These constellations will be unique locally and ocean policy advocates need to work to align these stars and take advantage when appropriate.

7.8 A final word: ocean management is here to stay

The problems and issues of ocean management confronted by Oregon and other states are real, complex and often intractable. New issues arise continually. States and federal agencies, even legislative bodies, cannot afford to neglect these issues or delay in their solutions if there is to be hope of conserving valuable ocean resources. States need technical, political and program support from federal agencies; federal agencies need the local expertise and programs of state agencies. In the unlikely event of new federal legislation, states and federal agencies must find work creatively to fashion new, cooperative ocean management initiatives from existing authorities and programs.

REFERENCES

1. Based on historical claims, Texas and Florida have jurisdiction to three marine leagues (equal to 9 nautical miles) in the waters of the Gulf of Mexico.
2. 1953 Submerged Lands Act (43 USC 1301–1315).
3. A nautical mile is the length of one minute of arc of latitude and is approximately 6076 feet or 1.15 'statute' miles (1.85 km). Thus, 3 nautical miles equals 3.45 statute miles (5.55 km).
4. Wilder, R. J., The three-mile territorial sea: its origins and implications for contemporary offshore federalism. *Virginia Journal of International Law*, 1992, **32**, 681–746.
5. Use of this term has been rendered somewhat ambiguous by Presidential Proclamation No. 5928 of 27 December 1988 that declared a 12-mile 'territorial sea' for limited international purposes.
6. For example: (1) the 1972 Coastal Zone Management Act (16 USC 1456(c)), amended by Title VI of the Budget Reconciliation Act, PL 101–508 (1990), grants states authority to require federal activities, licenses or permits that are within or that may affect the state's coastal zone to be 'consistent' with that state's coastal management program; (2) the Fishery Conservation and Management Act of 1976 (16 USC 1801–1882) confers certain specific powers to coastal states to regulate fisheries seaward of their boundaries; and (3) the Outer Continental Shelf Lands Act Amendments of 1976 (43 USC 1345) provide for state recommendations, through the governor, regarding the size, timing and location of a proposed oil and gas lease sale.
7. Holser, A. F., Offshore lands of the USA: the US Exclusive Economic Zone, continental shelf and outer continental shelf. *Marine Policy*, 1988, **12**(1) 2–8.
8. The Oregon Coastal Conservation and Development Commission (OCC and DC) was created by the 1971 legislature (ORS 191.010 *et seq*) to prepare a natural resource management plan for the Oregon coastal zone.
9. *Oregon Coastal Conservation and Development Commission, Final Report*. OCC and DC, Florence, Oregon, 1975.
10. Presidential Proclamation No. 5030 of 10 March 1983.
11. Pendley, W. P., Importance of the EEZ proclamation. In *Symposium Proceedings: A National Program for the assessment and Development of the Mineral Resources of the United States Exclusive Economic Zone*. US Geological Survey Circular 929, Washington, DC, 1983.
12. Draft environmental impact statement, proposed polymetallic sulfide minerals lease offering: Gorda Ridge area offshore Oregon and northern California. Minerals Management Service, Reston, Virginia, 1983.
13. Petit, C., Surprising lack of interest in seabed minerals. In *San Francisco Chronicle*, Thursday 9 February 1984. San Francisco, California, 1984.

14. Parmenter, T. and Bailey, R., *The Oregon Oceanbook*. Oregon Department of Land Conservation and Development, Salem, Oregon, 1985
15. Good, J. W. and Hildreth, R., *Oregon Territorial Sea Management Study*. Oregon Department of Land Conservation and Development, Salem, Oregon, 1987.
16. *Coastal States and the US Exclusive Economic Zone*. Coastal States Organization, Washington, DC, 1987.
17. *A Leadership Agenda: State Management of Ocean Resources*. Western Legislative Conference, Council of State Governments, Lexington, Kentucky, 1988.
18. In January 1988 AB 2838, creating the California Ocean Resources Management Act was introduced by California Assembly-man Sam Farr, also a member of the Western Legislative Conference Ocean Resource Committee, and State Senator Barry Keene.
19. Oregon Revised Statutes 201.370(2).
20. Oregon Administrative Rules Chapter 660, Division 30, adopted pursuant to ORS 197.005 and 197.010, requires the Land Conservation and Development Commission (the state land-use planning commission) to certify that state agencies have a program to assure that state agency rules and programs that affect land use comply with the statewide planning goals and are compatible with city and county comprehensive plans approved by the commission.
21. *Oregon Ocean Resources Management Plan,* 1990. Oregon Department of Land Conservation and Development, Salem, Oregon, 1990.
22. *Territorial Sea Plan*. Oregon Department of Land Conservation and Development, Salem, Oregon, 1994.
23. Fox, D., Merems, A., Miller, B., Long, M., McCrae, J. & Mohler, J. *Oregon Rocky Shores Natural Resource Inventory*. Oregon Department of Fish and Wildlife, Marine Region, Newport, Oregon, 1994. This first-ever survey and assessment of all rocky shores was undertaken by the Oregon Department of Fish and Wildlife in 1992, 1993 and 1994. This inventory, funded by a combination of state funds and federal Section 309 Coastal Zone Management funds, provided the Ocean Policy Advisory Council with the factual base needed to apply management strategies to actual locations on the coast.
24. Bucy Associates, *Rocky Shores Communication Strategy*. Oregon Department of Land Conservation and Development, Portland, Oregon, 1995.
25. NOAA (National Ocean and Atmospheric Administration), *West Coast of North America Coastal and Ocean Zones Strategic Assessment: Data Atlas*. US Department of Commerce, NOAA, National Ocean Survey, Strategic Assessment Branch, Rockville, MD, 1988.
26. Minerals Management Service, *An Evaluation of Spawning and Recruitment Patterns of Fishes off Northern California, Oregon, and Washington* (*Preliminary Results,* 1989). US Department of the Interior, Minerals Management Service Pacific OCS Region Environmental Studies Program, Camarillo, CA, 1991.
27. Minerals Management Service, *Washington, Oregon, and California OCS Fisheries Database* (*Preliminary Results,* 1989). US Department of the Interior, Minerals Management Service Pacific OCS Region Environmental Studies Program, Camarillo, CA, 1992.