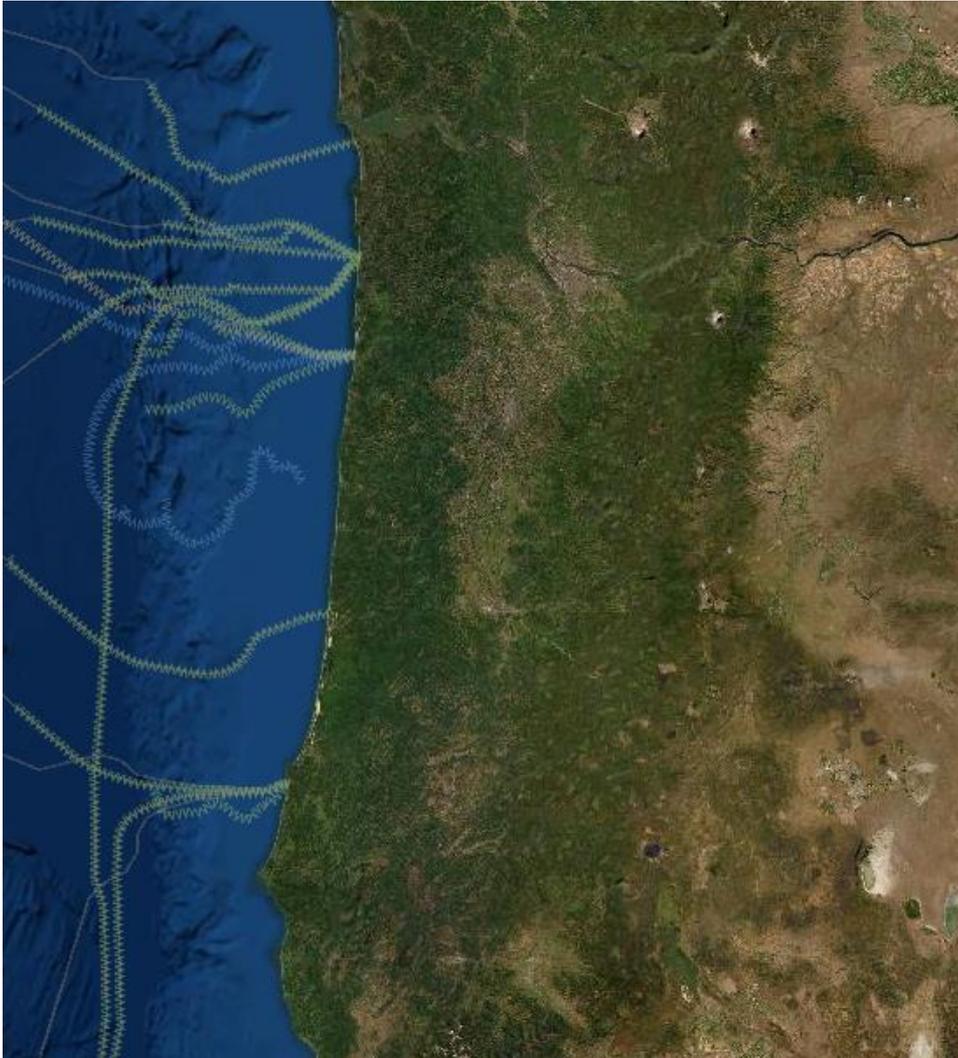


UNDERSEA CABLES

*House Committee on Energy and Environment
February 24, 2021*

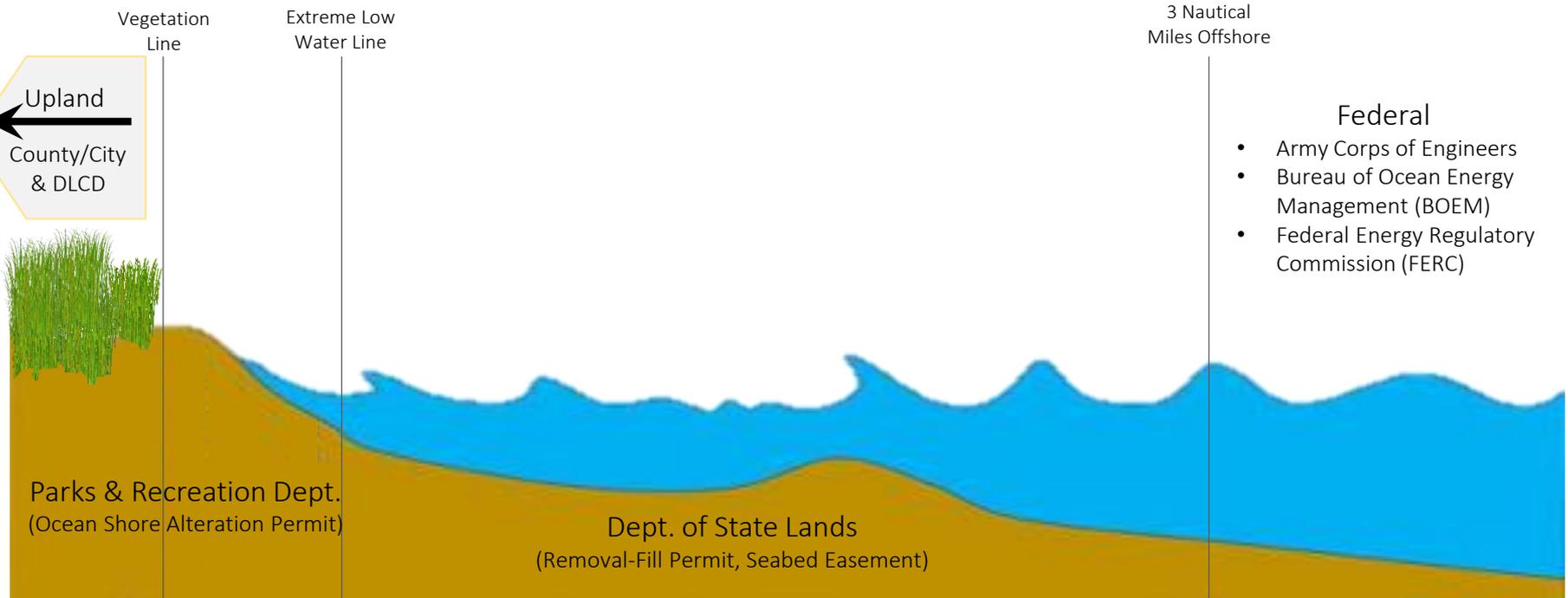


Undersea Cables in Oregon's Territorial Sea



1. Regulatory Framework & Jurisdictional Overview, Territorial Sea Plan: DLCD
2. Removal-Fill Permit & State-Owned Land Easement: DSL
3. Section 401 Water Quality Certification: DEQ
4. Ocean Shore Alteration Permit: OPRD
5. Federal Consistency: DLCD

Regulatory Overview: Undersea Cables



Coastal Zone: Dept. of Land Conservation & Development - OR Coastal Management Program (Federal Consistency Review)

Statewide: Dept. of Environmental Quality (401 Water Quality Certification)
Dept. of Fish & Wildlife (Fishery closures/exclusion; Consultation; Scientific and Incidental Take Permits)

Permitting Overview: Undersea Cables

LOCAL

- Determined based on local policies. May include:
 - Conditional Use Permit
 - Floodplain Development Permit
 - Development Permit

Involved State Agencies



STATE

- Federal Consistency Review (DLCD-OCMP)
- Section 401 Water Quality Certification (DEQ)
- Land Easement/Lease (DSL)
- Removal-Fill Permit (DSL)
- Ocean Shore Alteration Permit (OPRD)



FEDERAL

- Nationwide Permit or Standard Individual 404 Permit (U.S. Army Corps of Engineers)
- Other project-based authorizations may involve -
 - Bureau of Ocean Energy Management (BOEM)
 - Federal Energy Regulatory Commission (FERC)
 - U.S. Coast Guard



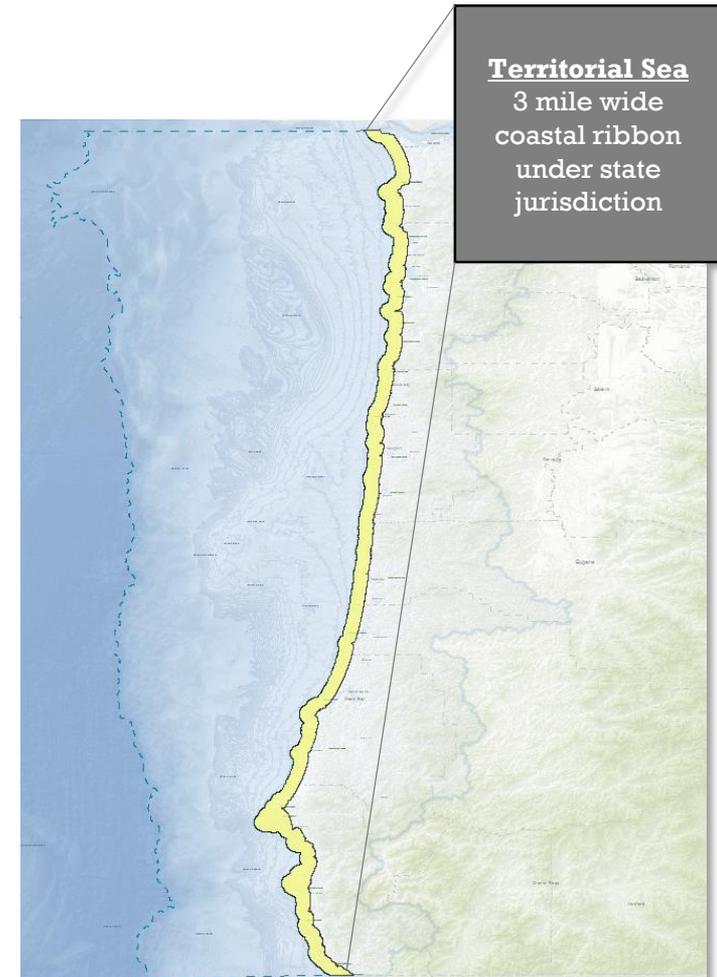
Oregon's Territorial Sea Plan

Adopted in 1994

“To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

- **Provides a coordinated framework for managing Oregon's ocean resources**
- Founded upon Statewide Land Use Planning Goal 19
- Multiple Parts (chapters)
 - Part 3 - Rocky Shore Management
 - Part 4 - Cable's across the territorial sea
 - Part 5 - Marine Renewable Energy

The Plan relies on a network of state authorities & programs to implement Plan policies and recommendations



DSL Jurisdiction & Authority

- The State Land Board, and the Department of State Lands as its administrative agency, have jurisdiction over the submerged and submersible land of the territorial sea
 - Use of State-Owned Land (ORS 274 & OAR 141-083)
 - Authorizing all uses of the seafloor, including placement of fiber optic cables; installation of wave and wind energy devices and research equipment.
 - Removal-Fill Permit (ORS 196 & OAR 141-085)
 - Administering Oregon's removal-fill law which governs the removal, fill and alteration of sediments, rock and other materials comprising the submerged and submersible land underlying the territorial sea



Use of State-Owned Land

- Easements are required for long-term or permanent use of state-owned land
 - Consistent with Statewide Planning Goals, the Territorial Sea Plan, and applicable laws
- When considering easement applications...
 - Coordinate with local, state and federal agencies
 - Provide a public review process
 - Applicant demonstrates coordination with fishing interests
 - Applicant demonstrates that cable will be buried to the extent practicable
 - Present a final recommendation to the State Land Board
- Under current law, bonding may be required



Removal-Fill Permit

- A removal-fill permit is also required if a project takes place within the territorial sea and will involve removal and/or fill of more than 50 cubic yards of material in the seabed
 - Examples
 - Trenching a cable
 - Other impacts to the seabed as part of construction
 - Horizontal directional drilling under the seabed does not count in the volume calculation

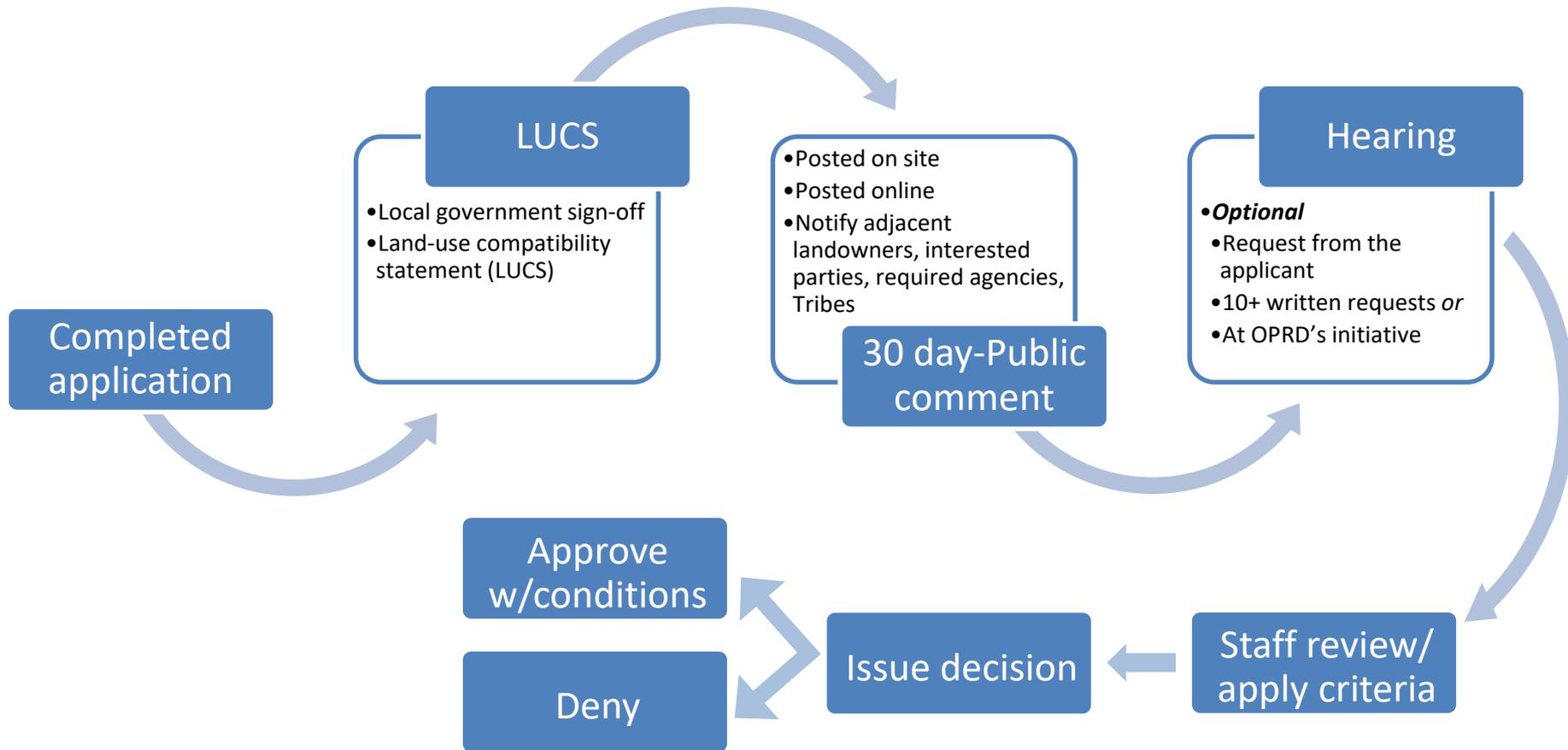


Potentially Applicable DEQ Regulations

- State Water Quality Certification (CWA Section 401) is required if:
 - Section 404 Dredge & Fill permit is required, or
 - FERC license is required
- In addition, a Construction Stormwater Permit (1200-C) is required if project disturbs one acre or more



Ocean Shore Alteration Permit Process



Ocean Shore Alteration Permit

- Project need
- Alternatives
- Compliance
 - Laws/regulations
 - Local comprehensive plans
 - Relevant statewide planning goals
- Protection of natural & cultural resources
- Protection of public rights to the ocean shore
 - Access, recreation, scenic enjoyment
- Site specific physical characteristics & land use
- Public costs
- Safety
- Public opinion



Federal Consistency

Authority granted to states under the provisions of the Coastal Zone Management Act (CZMA) allowing the application of state policies to federal activities

Conducted by: Oregon Coastal Management Program

Lead Agency: Department of Land Conservation & Development

- Designed to -
 - Promote state-federal cooperation and early coordination on federal activities
 - Give states the authority to review federal activities for consistency with state policies
- Oregon's policies sourced from –
 - State Agency Statutes & Rules
 - Local Comprehensive Plans & Ordinances
 - Territorial Sea Plan
 - Statewide Land Use Planning Goals

**Federal agency cannot issue the permit
if inconsistent with state policy**



CONTACTS

- DLCD:** Emma Land, Legislative Coordinator, Emma.Land@state.or.us
Andy Lanier, Marine Affairs Coordinator, Andy.Lanier@state.or.us
- DSL:** Chris Castelli, Senior Policy & Legislative Analyst,
Chris.Castelli@.state.or.us
- DEQ:** Rian Hooff, Senior Policy & Legislative Analyst,
Rian.Hooff@deq.state.or.us
- OPRD:** Chris Havel, Associate Director, Chris.Havel@oregon.gov

