- 1 Oregon Territorial Sea Plan
- **3 PART FIVE:**
- 4 Use of the Territorial Sea for the Development of
- 5 **Renewable Energy Facilities or Other Related**

## **6** Structures, Equipment or Facilities

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PART FIVE of the Oregon Territorial Sea Plan<sup>1</sup> describes the process for making 8 9 decisions concerning the development of renewable energy facilities (e.g. wind, wave, 10 current, thermal, etc.) in the state territorial sea, and specifies the areas where that 11 development may be sited. The requirements of Part Five are intended to protect areas 12 important to renewable marine resources (*i.e.* living marine organisms), ecosystem 13 integrity, marine habitat and areas important to fisheries from the potential adverse 14 effects of renewable energy facility siting, development, operation, and decommissioning 15 and to identify the appropriate locations for that development which minimize the 16 potential adverse impacts to existing ocean resource users and coastal communities. 17 Oregon's renewable energy portfolio lists ocean energy as a renewable energy source with 18 potential to reduce dependence on fossil fuels. $1^2$  Renewable ocean energy facilities 19 development may present opportunities to apply technologies that rely on wind, wave, 20 21 wind, current or thermal energy, that which may potentially reduce the environmental 22 impact of fossil fuels. Oregon prefers to develop renewable energy through a 23 precautionary approach that supports the use of pilot projects and phased development in

24 the initial stages of commercial development. If developed in a responsible and

"(a) That development and use of a diverse array of permanently sustainable energy resources be encouraged utilizing to the highest degree possible the private sector of our free enterprise system.

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"(g) That state government shall provide a source of impartial and objective information in order that this energy policy may be enhanced."

See Part One, section C for the Oregon Territorial Sea and Territorial Sea Plan description

<sup>2</sup> It is the goal of Oregon to develop permanently sustainable energy resources and the policy of the state to encourage the development and use of these resources. ORS 469.010(2) provides in part:

<sup>&</sup>quot;It is the goal of Oregon to promote the efficient use of energy resources and to develop permanently sustainable energy resources. The need exists for comprehensive state leadership in energy production, distribution and utilization. It is, therefore, the policy of Oregon:

1 appropriate manner, in accordance with the requirements of this Part and other

2 applicable state and federal authorities, renewable ocean energy may help preserve

**3** Oregon's natural resources and enhance our quality of life.

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#### A. Renewable Energy Facilities Development

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#### 1. Background

8 Oregon's territorial sea has been identified as a favorable location for siting renewable energy 9 facilities for research, demonstration and commercial power development. These facilities may 10 vary in the type and extent of the technologies employed and will require other related 11 structures, equipment or facilities to connect together, anchor to the seafloor and transfer energy to on-shore substations. The State of Oregon will require the proper siting and 12 13 development of these facilities in order to minimize damage to or conflict with other existing 14 ocean uses and to reduce or avoid adverse effects on marine ecosystems and coastal 15 communities. 16 17 State agencies, including the Oregon Departments of State Lands, Fish and Wildlife, Parks and 18 Recreation, Environmental Quality, Land Conservation and Development, Water Resources, 19 Energy, and Geology and Mineral Industries, need specific policies and standards for 20 considering the siting and regulation of renewable energy facility development in the territorial 21 sea. The State also needs specific policies and, standards to guide, data and information 22 within the Territorial Sea Plan should also assist federal agencies in the siting and regulation 23 of renewable energy facilities development located in federal waters adjacent to the Oregon territorial sea. $3^{4}$ 24 25 26 NOTE: Notwithstanding Part One, paragraph F.1.b, the following policies and implementation requirements are mandatory. Decisions of state and federal agencies<sup>5</sup> with 27 28 respect to approvals of permits, licenses, leases or other authorizations to construct, operate, 29 maintain, or decommission any renewable energy facility to produce, transport or support 30 the generation of renewable energy within Oregon's territorial waters and ocean shore must 31 comply with the requirements mandated in the Oregon Territorial Sea Plan. The Once 32 NOAA/OCRM approves the incorporation of the enforceable policies (see Part Five, 33 Appendix D) of the Territorial Sea Plan and into the Oregon Coastal Management Program, 34 they are applicable to those federal actions that affect Oregon's coastal zone and are subject

35 to the federal consistency requirements of the federal Coastal Zone Management Act.

<sup>4</sup> Part One, subsections E.1 and E.2 provide a brief description of programs of certain state and federal agencies with regulatory, consultation or other authority or responsibility for management of ocean resources.

<sup>5</sup> State agencies making decisions to authorize the siting, development and operation of renewable energy facilities development or other related structures, equipment or facilities within the Territorial Sea, will be referred to as "the regulating agency" or "regulating agencies".

with regulatory, consultation or other authority or responsibility for management of ocean resources.

#### 1 **2. Policies**

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2	The fo	llowing policies apply generally to renewable energy facilities within the Oregon
3	Territo	brial Sea, and establish the guiding principles for the implementation requirements listed
4	in <del>sect</del>	ionsections B and C. When making decisions to authorize the siting, development,
5	operati	ion, and decommissioning of renewable energy facilities within the territorial sea, state
6	and fee	<del>leral</del> regulating agencies shall6:
7		
8	a.	Maintain and <i>protect</i> renewable marine resources ( <i>i.e.</i> living marine organisms),
9		ecosystem integrity, marine habitat and areas important to fisheries from adverse
10		effects that may be caused by the installation or operation or removal of renewable
11		energy facility by requiring that such actions:
12		
13		1.) Avoid adverse effects to the integrity, diversity, stability and complexity of the
14		marine ecosystem and coastal communities, and give first priority to the conservation
15		and use of renewable marine resources;
16		
17		2.) Minimize effects by limiting the degree or magnitude of the action and its
18		implementation;
19		
20		3.) Rectify or mitigate the effects that occur during the lifetime of the facility project by
21		monitoring and taking appropriate corrective measures through adaptive management;
22		and
23		4) Destage the network share staristics of a site to the extent presticable when the facility
24 25		4.) Restore the natural characteristics of a site to the extent practicable when the facinity
23 26		and structures are <b>project is</b> decommissioned and removed.
20 27	h	<b>b</b> Protect marine renewable <b>marine</b> resources • the biological diversity and
27 28	<del>0</del> 7	<u><b>b.</b></u> I folder integrity of <b>the</b> marine ecosystem important marine babitat areas important
20 29		to fisheries navigation recreation and aesthetic enjoyment as required by Statewide
30		Planning (see also Goal 19-):
31		1 Iuming <u>(500 usb)</u> Cour 17.) <u>4</u>
32	Pre	prote direct communication and collaboration between c. Communicate and
33		collaborate with an applicant for a state or federal authorization for the siting.
34		development and operation of renewable energy facilities and affected ocean users and
35		coastal communities to reduce or avoid conflicts. Agencies will strongly;
36		
37	<del>c.</del>	<b>d. Strongly</b> encourage applicants to engage with local, state and federal agencies,
38		community stakeholders, tribal governments and affected ocean users in a collaborative

ted structures, equipment or facilities within the Oregon Territorial Sea, will be referred to as "the regulating agency" or "regulating agencies".

agreement-seeking process prior to formally requesting authorization to initiate a project.  $7\frac{8}{10}$ 

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**d.** <u>e.</u> Limit the potential for unanticipated adverse impacts by requiring, as necessary when resource inventory and effects information is insufficient, the use of pilot projects and phased development to collect data and study the effects of the development on the affected marine resources and uses-; and

- **e.** <u>**f.**</u> Encourage the research and responsible development of ocean-based renewable energy sources including wave, tidal, and wind that meet the state's need for economic and affordable sources of renewable ocean energy.
- 11 12 13

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#### **B.** Implementation Requirements

15 State and federal **Regulating** agencies shall apply the following implementation requirements 16 when considering a proposal for the placement or operation of a renewable energy facility 17 development within the Oregon Territorial Sea. Regulating agencies shall comply with the 18 standards and procedural requirements in Part Five of the Territorial Sea Plan as prescribed 19 below. This includes the cables, connectors or other transmission devices that connect, anchor, 20 support or transmit energy between the separate components within a renewable energy 21 facility. The Regulating agencies shall apply the requirements in Part Four, Uses of the 22 Seafloor for Telecommunication Cables, Pipelines, and other Utilities, will apply to the utility 23 cables that transmit the electrical energy from the renewable energy facility to the on-shore substation.<sup>9</sup> The requirements in Part Two, Making Resource Use Decisions, Sectionssections 24 25 A and B, will not apply to the evaluation, siting or operation of renewable energy development 26 or other related structures, equipment or facilities. 27

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## 1. Siting: areas designated for renewable energy facilities development.

- a. In State Waters:
  - Pursuant to the requirements for amending the Territorial Sea Plan under ORS 196.471, to carry out the policies of the Oregon Ocean Resources Management Act and

<sup>&</sup>lt;sup>8</sup> In its "Rules Governing the Placement of Ocean Energy Conversion Devices On, In or Over State-Owned-Land within the Territorial Sea", the Department of State Lands requires applicants to meet with the agency, as well as affected ocean users and other government agencies having jurisdiction in the Territorial Sea, prior to applying for a lease or temporary authorization. OAR 141-140-0040.

<sup>&</sup>lt;sup>9</sup> The manner in which federal agencies comply with the enforceable policies and information requirements of Goal 19 is governed by NOAA's CZMA Federal Consistency regulations at 15 CFR Part 930. Thus, any reference to "federal agencies" in the Territorial Sea Plan does not impose obligations on federal agencies that are in addition to those described in the CZMA and NOAA's regulations.

consistent with the statewide planning goals, the Land Conservation and Development 1 2 Commission will designate has designated areas of the territorial sea appropriate for 3 the development of renewable energy facilities.10 (See appendix C map). (see Map 4 Designations in Appendix B), and established the review standards for siting projects within those designated areas (see section B.4).<sup>11</sup> Renewable energy 5 facilities development of the state lands of the territorial sea lying seaward of Extreme 6 7 Low Water (which is *i.e.* the seaward boundary of the Ocean Shore State Recreation 8 Area) shall be sited within the areas an area designated for that use so as to avoid, 9 minimize or mitigate the adverse effects of that development the project, and to protect: renewable marine resources, biological diversity and functional integrity of 10 11 marine ecosystem, important marine habitat, and areas important to fisheries, as defined-12 in Statewide Planning provided in Goal 19 Ocean Resources. 13

#### b. In Federal Waters:

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15 The Department of Land Conservation and Development will review federal decisions to permit, license, or otherwise authorize renewable energy facilities development 16 17 within the waters and seafloor of the outer continental shelf adjacent to the Oregon 18 Territorial Sea that have reasonably foreseeable effects on coastal resources or uses 19 for consistency with the Oregon Territorial Sea Plan and the applicable enforceable 20 policies of the Oregon Coastal Management Program- pursuant to NOAA's CZMA 21 federal consistency regulations at 15 CFR Part 930.12 Federal actions, including the 22 issuance of any federal authorizations, that affect any land or water use or natural-23 resources of the are subject to Oregon Coastal ZoneCZMA review, shall be supported

Program."

<sup>11</sup> ORS 196.471, entitled "Territorial Sea Plan review requirements, provides in part:

"(1) The Land Conservation and Development Commission shall review the Territorial Sea Plan and any subsequent amendments recommended by the Ocean Policy Advisory Council to either the Territorial Sea Plan or the Oregon Ocean Resources Management Plan and make findings that the plan or amendments:

"(a) Carry out the policies of ORS 196.405 to 196.515; and

"(b) Are consistent with applicable statewide planning goals, with emphasis on the four coastal goals.

"(2) After making the findings required by subsection (1) of this section, the commission shall adopt the Territorial Sea Plan or proposed amendments as part of the Oregon Coastal Management Program."

12 Whether a particular federal license or permit activity proposed in federal waters is subject to Oregon review depends on whether the State has, pursuant to 15 CFR § 930.53, (1) listed the federal authorization in the Oregon Coastal Management Program, and (2) the proposed listed activity falls within a NOAA-approved "Geographic Location Description" (GLD). If Oregon has not listed the activity and does not have a NOAA-approved GLD, the State can seek NOAA approval to review a project on a case-by-case basis as an "unlisted activity" pursuant to 15 CFR § 930.54. If a federal action, including the issuance of any federal authorizations, is subject to Oregon CZMA review, it shall be supported by the information required in NOAA's regulations at either 15 CFR § 930.39, 930.58 or 930.76.

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1		by environmental studies and analysis as prescribed below, to ensure compliance with
2		the enforceable policies of Oregon Territorial Sea Plan and the Oregon Coastal-
3		Management Program.13the information required in NOAA's regulations at either
4		15 CFR §§ 930.39, 930.58 or 930.76.14
5		
6	2.	State Agency Review Process
7		Pursuant to ORS 196.485 and ORS 197.180, state agencies shall apply the policies and
8		provisions of the Oregon Ocean Resources Management Plan and, Oregon Territorial Sea
9		Plan, and Goal 19 Ocean Resources as required to comply with State Agency Coordination
10		Programs (OAR chapter 660, divisions 30 and 31).
11		
12		The Department of State Lands shall coordinate the review of requests for approvals of
13		leases, temporary use permit, easements and removal-fill in consultation with the-
14		Departments of Fish and Wildlife, Parks and Recreation, Environmental Quality, Land-
15		Conservation and Development, Water Resources, Geology and Mineral Industries, Energy,
16		coastal local governments, and tribal governments as appropriate. These agencies, with the
17		addition of the regulating federal agencies, will constitute the joint agency review team
18		(JART) described in subsection B.3 below. Pursuant to the federal Coastal Zone-
19		Management Act In accordance with the federal Coastal Zone Management Act,
20		federal consistency regulations (15 CFR Part 930), and ORS 196.435, the Department
21		of Land Conservation and Development will review the consistency certification together
22		with required necessary data and information submitted by the applicant for federal
23		authorization for a renewable energy facilities development to ensure the project is
24		consistent with enforceable policies of the Oregon Coastal Zone Management Program,
25		including the Territorial Sea Plan.
26		
27		The Department of State Lands (DSL) shall coordinate the review of applications for
28		proprietary authorizations in consultation with the Joint Agency Review Team
29		(JART) as described in paragraph B.3.a.
30		
31	<u>3.</u>	JART Project Review Process and Coordination
32		The Department of State Lands (DSL) shall convene the JART, during the pre-
33		application and application phases in order to facilitate the coordination of state and
34		federal agencies, in consultation with local jurisdictions, as they apply their separate
35		regulatory, proprietary, or other authorities to the review of a proposed renewable energy
36		facility development. The team shall consist of the state and federal.
37		

<sup>14</sup> The regulations for federal consistency with approved state coastal programs are prescribed in 15 CFR Part 930. "Energy projects" are defined under 15 CFR § 930.123(c) to mean "projects related to the siting, construction, expansion, or operation of any facility designed to explore, develop, produce, transmit or transport energy or energy resources that are subject to review by a coastal State under subparts D, E, F or I of this part."

1	<u>a.</u>	DSL will invite representatives from the following agencies, jurisdictions and
2		organizations to be members of the JART:
3		<b>1.) Departments of Fish and Wildlife, Parks and Recreation, Environmental</b>
4		Quality, Land Conservation and Development, Water Resources, Energy, and
5		Geology and Mineral Industries;
6		2.) Federal agencies, as invited, with regulatory or planning authority applicable to
7		the proposed project and location: DSL shall also request that
8		3.) Local jurisdictions including representatives from affected cities, counties, and
9		their affected communities, and affected port districts;
10		4.) Statewide and local jurisdictions, if any, organizations and advisory committees,
11		as invited, to participate in the JART review and may also invite local or statewide
12		interest groups and advisory committees to participate. The joint agency review-
13		teamapplication of specific standards, including but not limited to those addressing
14		areas important to fisheries, ecological resources, recreation and visual impacts;
15		and,
16		5.) Federally Recognized Coastal Tribes in Oregon.
17		
18	b.	JART Roles and Responsibilities
19		<b><u>1.) The JART</u></b> will coordinate the with DSL <sup>15</sup> on the pre-application review process,
20		and comment on the adequacy of the resource inventories and effects evaluations
21		required under subsection B.4 (Resource and Use Inventory and Effects Evaluation and
22		Special Resource and Use Review Standards), below, and and National
23		Environmental Policy Act (NEPA) environmental assessments and environmental
24		impact statements.
25		2.) The joint agency review team JART will make recommendations to regulating
26		agencies on whether the information provided by the applicant for the
27		proposed renewable energy facility meets the applicable standards and
28		screening criteria associated with the map designation standards and criteria.
29		3.) The JART will make recommendations to DSL on the approval of proprietary
30		authorizations, and to other applicable regulatory agencies on their decision to
31		permit, license or authorize proposed renewable energy facility projects. <sup>10</sup>
32		<b><u>4.) The JART</u></b> will also consider <b>and make recommendations on</b> the adequacy of the
33		information provided for the operation plan, as required under section C. (Operation
34		Plan Development) below,), including the monitoring requirements, mitigation
35		measures, adaptive management plans, construction and operational performance

<sup>&</sup>lt;sup>15</sup> OAR chapter 141, division 140 establishes and prescribes the pre-application process for renewable energy facilities within the territorial sea.

<sup>&</sup>lt;sup>16</sup> For purposes of CZMA federal consistency reviews in accordance with NOAA's regulations at 15 CFR Part 930 and ORS 196.435, the Department of Land Conservation and Development is the designated state agency for conducting the federal consistency review.

1	standards, or any other special conditions that a regulating state agency may apply	
2	pursuant to the lease, permit, license or other authorization.	
5 1	DSL shall require that an applicant provides documentation varifying their	
5	communication and coordination afforts with local communities interest groups an	d
5	advisory committees. Those efforts shall at a minimum include information on the	
7	proposed project operation protocols response to emergencies and procedures for	C
8	on going communication as specified in section C (5.) The JART	
9	recommendations are advisory: regulating agencies who are members of the	
10	JART still operate in accordance with their own rules and statutory mandates	•
11	6.) DSL may acquire the services of technical experts to assist the JART in	-
12	analyzing specific subject information such as marine business economics and	_
13	operations, as necessary to conduct the application review.	-
14	<u>Operation Plan Development</u> ), below.	
15		
16	4. Resource and Use Inventory and Effects Evaluation and Special Resource and Use	
17	<u>Review</u> Standards	
18		
19	Regulating agencies will require the An applicant to must provide a resource inventory and	-
20	effects evaluation, as required by this subsection the regulating agencies the data and	
21	apply the Special Desource and Use Deview Standards, prior to the regulating agencia	
22	making any decision 17 State agencies will assist the applicant by providing readily	0
23	available data and other information as applicable to the review process. An applicant	
25	may use relevant inventory information included in a project application to a federal	
26	agency to meet the requirements of this subsection.	-
27		
28	a. Sufficiency of Purpose of the Resource and Use Inventory and Effects Evaluation	
29	The resource inventory and effects evaluation shall be sufficient to identify and quantify	
30	the short-termSpecial Resource and long-term effects of the proposed renewable	
31	energy facility development on the affected marine resources and uses. Use Review	
32	<u>Standards</u>	
33		
34	b. Purpose of the Effects Evaluation	
35	The purpose of the effects evaluation is to determine whether the proposed actions can	-
36	meet the policies and standards for the protection of resources, resource users and	
31	coastal communities referred to above in subsection A.2 (Policies), above. The	
38 20	evaluation I ne purpose of the Resource and Use Inventory and Effects Evaluation	_
39 40	and special Resource and Use Review Standards is to provide the regulating	
40	agencies the data and information necessary to make a decision based on the	

17 This is not "necessary data and information" for the purposes of 15 CFR § 930.58(a)(1)(ii).

	potential coastal effects the project might incur. Resource and Use Inventory and
	Effects Evaluation and Special Resource and Use Review Standards will help
	identify where the applicant needs to address deficiencies. The regulating agency will
	use the evaluation to develop specific measures for environmental protection and
	mitigation, measures to protect ocean uses, monitoring, and adaptive management.
<u>b.</u>	Sufficiency of Resource and Use Inventory and Effects Evaluation
	An applicant must provide information and data to complete the Resource and Use
	Inventory and Effects Evaluation and apply the Special Resource and Use Review
	Standards that is sufficient to identify and quantify the short-term and long-term
	<u>effects of the proposed renewable energy facility development on the affected</u>
	marine resources and uses.
c.	Use of Available Environmental Information
	Regulating agencies may allow the applicant to use existing data and information from
	any source other authoritative sources, including NEPA documents, when complying
	with the requirements for resource inventory the <b>Resource</b> and effects evaluation All
	dataUse Inventory and information used for the inventory Effects Evaluation and
	avaluation including axisting data from federal anyironmental impact statements or
	assassments, shall meet the same standards of adequacy required for the
	inventory Special Desource and the evaluation Use Deview Standards
	inventoryspecial Resource and the evaluation Use Review Standards.
d.	Inventory Content
	To evaluate the magnitude of the proposed project, the likelihood of the project effects
	of the project, and the significance of the resources and uses that the project may affect,
	regulating agencies shall require that the applicant include consideration of the-
	following factors in the inventory: certain factors in the inventory. The Resource
	and Use Inventory and Effects Evaluation and Special Resource and Use Review
	Standards requirements apply to all renewable energy facility projects for which
	an applicant pursues a DSL proprietary authorization, unless the requirements
	are waived by DSL or otherwise addressed in another subsection of the plan. In
	addition to the resource inventory and effects evaluation content of this paragraph,
	projects are also subject to the Special Resource and Use Review Standards
	<u>specified in paragraph B.4.g.</u>
	1) Proposed factors associated with.) Information regarding the development,
	placement, operation, maintenance, and decommissioning of the project:
	$A(\underline{a})$ Location (using maps, charts, descriptions, etc.);
	$\mathbf{B}(\mathbf{b})$ Numbers and sizes of equipment, structures;
	$\overline{\mathbf{C}(\mathbf{c})}$ Methods, techniques, activities to be used:
	$\mathbf{D}(\mathbf{d})$ Transportation and transmission systems needed for service and support:
	$\mathbf{E}(\mathbf{e})$ Materials to be disposed of and method of disposal:
	$\mathbf{F}(\mathbf{f})$ Physical and chemical properties of hazardous materials if any to be used
	or produced.
	or produced,

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G(g) Navigation aids; and
H(h) Proposed time schedule.
2).)Location and description of all affected areas, including, but not limited to:
$A(\mathbf{a})$ Site of the renewable energy facility;
$\mathbf{B}(\mathbf{b})$ Adjacent areas that may be affected by physical changes in currents and
waves caused by the facility project;
$\mathbf{C}(\mathbf{c})$ Utility corridor transiting <b>the</b> territorial sea and ocean shore; and
$\mathbf{D}(\mathbf{d})$ Shoreland facilities.
—
3).)Physical and chemical conditions including, but not limited to:
A(a) Water depth;
$\mathbf{B}(\mathbf{b})$ Wave regime;
$\mathbf{E}(\mathbf{c})$ Current velocities;
$\overline{\mathbf{D}(\mathbf{d})}$ Dispersal, horizontal transport, and vertical mixing characteristics;
$E(\mathbf{e})$ Meteorological conditions; and
$\mathbf{F}(\mathbf{f})$ Water quality.
4).)Bathymetry (bottom topography) and Shoreline Topography (LIDAR (Light
Detection Andand Ranging))
5).)Geologic structure, including, but not limited to:
A(a) Geologic hazards, such as faults or landslides of both marine and shoreline
facility areas;
$\mathbf{B}(\mathbf{b})$ Mineral deposits;
$\overline{\mathbf{C}(\mathbf{c})}$ Seafloor substrate type; and
$\overline{\mathbf{D}}(\mathbf{d})$ Hydrocarbon resources.
6).)Biological features, including, but not limited to:
A(a) Critical marine habitats (see Part Five, Appendix A);
$\mathbf{B}(\mathbf{b})$ Other marine habitats;
$\overline{\mathbf{C}(\mathbf{c})}$ Fish and shellfish stocks and other biologically important species;
$\mathbf{D}(\mathbf{d})$ Recreationally or commercially important finfish or shellfish species;
$E(\mathbf{e})$ Planktonic and benthic flora and fauna;
$\overline{F(f)}$ Other elements important to the marine ecosystem; and
$\mathbf{G}(\mathbf{g})$ Marine species migration routes.
7).)Cultural, economic, and social uses affected by the projectrenewable energy
facility, including, but not limited to:
$\overline{\mathbf{A}(\mathbf{a})}$ Commercial and sport fishing;
<b>B(b)</b> State or Federally federally protected areas;
$\mathbf{C}(\mathbf{c})$ Scientific research;
$\overline{\mathbf{D}(\mathbf{d})}$ Ports, navigation, and $\overline{\mathbf{Dredge Material Disposal} \mathbf{dredge material disposal}}$
sites;

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1	E(e) Recreation:
2	F(f) Coastal Communities Economycommunities economy:
3	$\overline{\mathbf{G}}(\mathbf{g})$ Aquaculture:
4	$H(\mathbf{h})$ Waste water or other discharge:
5	$\mathbf{I}(\mathbf{i})$ Utility or pipeline corridors and transmission lines:
6	$\mathbf{J}(\mathbf{j})$ Military Uses uses; and
7	K(k) Aesthetic Resources resources.
8	
9	8.) Significant historical, cultural or archeological resources.
10	
11	9.) Other data that the regulating agencies determine to be necessary and
12	appropriate to evaluate the effects of the proposed project.
13	
14	e. Written Evaluation.
15	Regulating agencies shall require the applicant to submit a written evaluation of all the
16	reasonably foreseeable adverse effects associated with the development, placement,
17	operation, and decommissioning of the proposed renewable energy facility. For
18	purposes of the evaluation, the submittal shall base the determination of "reasonably
19	foreseeable adverse effects" on scientific evidence. The information and data to
20	comply with the Special Resources and Uses Standards is specified in paragraph
21	<b>B.4.g.</b> The evaluation shall describe the potential short-term and long-term effects of the
22	proposed renewable energy facility on marine resources and uses of the <b>Oregon</b>
23	territorial sea, continental shelf, onshore areas and coastal communities based on the
24	inventory data listed in paragraph B.4.d above and the following considerations:
25	
26	1).) Biological and Ecological Effects:
27	Biological and ecological effects include those on critical marine habitats and other
28	habitats, and on the species those habitats support. The evaluation willshall
29	determine the probability of exposure and the magnitude of exposure and response,
30	as well as the level of confidence (or uncertainty) in those determinations. The
31	evaluation need not discuss highly speculative consequences. However, the
32	evaluation willshall discuss catastrophic environmental effects of low probability.
33	Factors to consider include, but are not limited to:
34	
35	A(a) The time frames/periods over which the effects will occur;
36	$\mathbf{B}(\mathbf{b})$ The maintenance of ecosystem structure, biological productivity,
37	biological diversity, and representative species assemblages;
38	C(c) Maintaining populations of threatened, endangered, or sensitive species;
39	$\mathbf{D}(\mathbf{d})$ Vulnerability of the species, population, community, or the habitat to the
40	proposed actions; and
41	E(e) The probability of exposure of biological communities and habitats to
42	adverse effects from operating procedures or accidents.
43	
44	2 <del>)</del> .) Current Uses:
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1	Evaluate the effects of the project on current uses and the continuation of a current
2	use of ocean resources such as fishing, recreation, navigation, and port activities.
3	Factors to consider include, but are not limited to:
4	A(a) Local and regional economies;
5	$\mathbf{B}(\mathbf{b})$ Archeological and historical resources; and
6	$\mathbf{C}(\mathbf{c})$ Transportation safety and navigation.
7	
8	3 <del>).)</del> Natural and Other Hazards
9	Evaluate the potential risk to the renewable energy facility, in terms of its
10	vulnerability to certain hazards and the probability that those hazards may cause
11	loss, dislodging, or drifting of structures, buoys, or facilities. Consider both the
12	severity of the hazard and the level of exposure it poses to the renewable marine
13	resources and coastal communities. Hazards to be considered shouldshall include
14	the scouring action of currents on the foundations and anchoring structures, slope
15	failures and subsurface landslides, faulting, tsunamis, variable or irregular bottom
16	topography, weather related, or due to human cause.
17	
18	4.) Cumulative Effects
19	Evaluate the cumulative effects of a project, including the shoreland component, in
20	conjunction with effects of any prior phases of the project, past projects, other
21	current projects, and probable future projects.18 <sup>19</sup> The evaluation should shall
22	analyze the biological, ecological, physical, and socioeconomic effects of the
23	renewable energy facility development and of other renewable energy facility
24	projects along the Oregon coast, while also taking into account the effects of
25	existing and future human activities and the regional effects of global climate
26	change.
27	$A(\mathbf{a})$ In conducting the cumulative effects analysis, the applicant should shall
28	focus on the specific resources and ecological components uses, as detailed
29	under paragraph B.4.d <del>above</del> , that may be affected by the incremental effects of
30	the proposed project and other projects in the same geographic area. The
31	evaluation should considershall include but not be limited to consideration of
32	whether:
33	1)i. the resource is and uses are especially vulnerable to incremental effects;

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<sup>&</sup>lt;sup>19</sup> Under the National Environmental Policy Act (NEPA), "cumulative impacts" means "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-federal) or person undertakes such actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." 40 CFR. § 1508.7.

1 2	2) <u>ii.</u> the proposed project is one of several similar projects in the same geographic area;
3 4	3) <u>iii.</u> other developments in the area have similar effects on the resource resources and uses;
5 6	4 <u>iv</u> .) these effects have been historically significant for this the resource and uses; and
7 8	$5\underline{v}$ , other analyses in the area have identified a cumulative effects concern.
0	B) The Joint Agency Review Team may determine the scope <b>IAPT shall make</b>
10	recommendations as to the adequacy of the cumulative effects analysis through a
11	set of guidelines developed by JART that regulating agencies willshall require of
12	the applicant for phased development projects as described below-under
13	subparagraph B.4.f.3 and subsection C.1. The JART will make a determination
14	from use the analysis to inform the location, scale, scope and technology of
15	subsequent stages of the phased development project; to provide input on any other
16	factors it determines to be relevant; or both. The renewable energy.
17	
18	<b>5.)</b> Adaptive Management
19	Regulating agencies and the project developer will conduct a comprehensive
20	cumulative effects analysis at the initial phase of a development designed to inform
21	Future phases of development. The regulating agencies and project developer-
22 23	the project at each subsequent phase; the intent of such evaluation is to inform the
24	design, installation and operation of successive phases.
25	
26	f. Insufficient/Incomplete Information
27	f. Pilot and Phased Development Projects
28	An applicant may not be able to obtain or provide the information required by
29	subsection B.4 (Resource and Use Inventory and Effects Evaluation and Special
30	<b>Resource and Use Review</b> Standards), above, due to the lack of data available about
31	the effect that the proposed development may have on environmentalmarine resources
32	and uses. When a regulating agencyJART recommends and DSL determines that the
33	information provided by the applicant is not sufficient or complete enough to fulfill the
34	requirements of subsection B.4, 20 the <u>a regulating</u> agency has the following options:
35	0.
36	1) .) Agency Discretion

1	The regulating agency may terminate the state permit decision-making process or
2	suspend the <b>state permit</b> process until the applicant provides the information. <sup>21</sup>
3	
4	2) .)_Pilot Project
5	The regulating agency may recommend that an applicant conduct a pilot project to
6	obtain adequate information and data and measure the effects. <sup>22</sup> Pilot projects are
7	renewable energy facility developments which are removable or able to be shut
8	down quickly, are not located in sensitive areas, and are for the purpose of testing
9	new technologies or locating appropriate sites.23 The agency's decision to $\frac{24}{4}$ A
10	regulating agency may allow the a project developer to use of a pilot project is
11	for the purpose of obtaining the data and information necessary to fulfill the
12	requirements of subsection B.4., and shall be based on the following approval
13	criteria:
14	
15	A) (a) The exclusive purpose of the pilot project shall beis to provide
16	information on the performance, structural integrity, design, and environmental
17	effects of a specific renewable energy technology or its supporting equipment
18	and structures.
19	B
20	(b) The applicant shall complete adequate inventories of baseline conditions, as
21	required by paragraph B.4.d (Inventory Content) above,), prior to conducting the
22	pilot project.
23	e
24	(c) The risk of adverse effects from the pilot project shall be insignificant,
25	because:
26	
27	1. <u>i.</u> of low probability of exposure of biological communities and habitats;

<sup>&</sup>lt;sup>21</sup> For purposes of CZMA federal consistency reviews, NOAA's regulations at 15 CFR Part 930 determine when the CZMA review periods start and ends; a state cannot start, terminate or suspend the CZMA review independent of NOAA's requirements.

22 Alternatively, DLCD may issue a CZMA "conditional concurrence" under 15 CFR § 930.4 and include a condition that in order to be consistent with the information requirements of the Territorial Sea Plan a project developer must first conduct a pilot project, or, if DLCD objects under the CZMA, may recommend a pilot project as an alternative to the proposed project.

<sup>24</sup> Pilot Project has the same meaning as "Demonstration Project" under the Department of State Lands rules governing the placement of ocean energy conversion devices on, in, or over state-owned land within the Territorial Sea. OAR 141-140-0020(7) defines "Demonstration Project" as "a limited duration, non-commercial activity authorized under a temporary use authorization granted by the Department to a person for the construction, installation, operation, or removal of an ocean energy facility on, in or over state-owned submerged and submersible land in the Territorial Sea to test the economic and/or technological viability of establishing a commercial operation. A demonstration project may be temporarily connected to the regional power grid for testing purposes without being a commercial operation."

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$\frac{1}{2}$	2. <u>ii.</u> of low sensitivity of the biological communities and habitats to the exposure; or
3	$\frac{3}{3}$ iii. the effects of exposure to sensitive communities and habitats will be
4	insignificant.
5	
6	$\mathbf{D}(\mathbf{d})$ The pilot project shall not adversely affect any "important marine habitat"
7	or "critical marine habitat" (see <b>Part Five</b> , Appendix A: Glossary of Terms).
8	
9	$\underline{E}(\underline{e})$ The pilot project will have a term, not to exceed five years, and
10	authorization for the project will include a standard condition requiring project
11	alteration or shutdown in the event that an unacceptable level of environmental
12	effect occurs.
13	
14	$F(\underline{f})$ The pilot project shall avoid significant or long-term interference with
15	other human uses of marine resources, and will require decommissioning and
16	site restoration at expiration of the authorization period if federal and state
17	authorization for a commercial renewable energy facility is not sought <u>and</u>
18	approved.
19	
20	G(g) All data necessary to meet the requirements of subsection B.4, shall be
21	in the public domain subject to ORS 192.410 et seq.
22	
23	$H(\underline{\mathbf{h}})$ Work Plan: The applicant shall provide a written work plan which will
24	include, but not be limited to the following: $25^{20}$
25	
26	<b><u>+i.</u></b> A list of the information needed to satisfy the requirements of
27	subsection B.4 <del>. above</del>
28	2. <u>ii.</u> Specific pilot project objectives to obtain the needed information and
29	an explanation of how the study or test design will meet the objectives.
30	3. <u>iii.</u> Description of study or test methods to meet the objectives, such as:
31	Literature review;
32	Collection of any needed baseline data;
33	Hypotheses to address the study objectives;
.54	Descriptions of tield sampling and data-analyses methods to be
25	Descriptions of field sampling and data-analyses methods to be
35	used; and
35 36	Use of adequate controls to allow the effects of the proposed

pilot project from a short-term limited scope facility to a commercial operation scale facility. <sup>26</sup> Pilot projects that are authorized under the standards and conditions of this subparagraph f.2 are not required to fulfill the requirements of section C. The standards and requirements of section C will apply to an application for authorization to expand the pilot project from a short-term limited scope facility to a commercial operation scale facility.

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2	4 <b>iv</b> . Supporting documentation demonstrating that the study design is
3	scientifically appropriate and statistically adequate to address the
4	research objectives.
5	5 <u>v</u> . Descriptions of how the <b>project developer will report and deliver the</b>
6	data and analyses will be reported and delivered to the regulating agency
7	for review and approval.
8	
9	(i) A pilot project that provides the necessary and sufficient information
10	may become a phased development.
11	
12	3 <del>).)</del> Phased Development
13	The regulating agency may recommend that an applicant conduct a project as a
14	phased development in order to obtain adequate information and data and to
15	measure the incremental effects of each phase prior to further or complete build-out
16	of the project. <sup>27</sup> Phased development projects are renewable energy facility
17	developments which are limited in scale and area, but are designed to produce
18	energy for commercial use. The applicant for a phased development project will-
19	need toshall comply with the requirements of subsection B.4. A regulating
20	agency's decision to agency may allow the use of a phased development project is
21	designed to allow for commercial energy production while obtaining certain data
22	and information that are necessary to fulfill the requirements of subsection B.4., but.
23	that can only be obtained through the monitoring and study of the effects of the
24	development as it is installed and operated for a discrete period of time.
25	
26	g. Test Facility
27	Applications for a permit, license, or other authorization for the installation and use of
28	an experimental or test device at the Northwest National Marine Renewable Energy-
29	Center Mobile Test Berth Site zone, are not subject to the requirements of section B.
30	See section D: Northwest National Marine Renewable Energy Center Mobile Test Berth
31	Site, below, for the specific requirements for the use of these facilities.
32	C. g. Special Resources and Uses Review Standards
33	In addition to the resource and use inventory and effects evaluation requirements,
34	special resource and use standards apply to specific areas within the territorial sea,
35	based on the delineation and definition of those areas in Part Five, Appendix B
36	Map Designations. The marine resources and uses addressed in this paragraph
37	are not intended to represent the exclusive subject matter of regulatory agency
38	review process. In applying the special resource and use review standards, the
39	regulating agencies shall use the best available maps and data. A regulating

27 Alternatively, the Department of Land Conservation and Development may issue a CZMA "conditional concurrence" under 15 CFR § 930.4 and include a condition that in order to be consistent with the information requirements of the Territorial Sea Plan that a phased project must first be conducted, or, if the state objects under the CZMA, may recommend a phased project as an alternative to the proposed project.

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1	agency may consider new information that it deems sufficient and applicable to the
2	review. The regulating agency will apply each standard in determining the
3	potential adverse effects of the proposed project based on best available science
4	and professional judgment. When confronting significant uncertainty regarding
5	the potential adverse effects of the proposed project, a regulating agency shall
6	apply the precautionary approach in decision-making.
7	
8	<b><u>1.) The following siting and development requirements apply to the construction,</u></b>
9	deployment or maintenance of a renewable energy facility:
10	
11	(a) Consider practicable alternative deployment and placement of structures
12	in proximity to the proposed project area that would have less impact on
13	identified resources and uses.
14	(b) Minimize construction and installation activities during critical time
15	<u>periods for the resources and uses as identified by appropriate regulatory</u>
16	agencies.
17	(c) Minimize disturbance to the identified resources and uses during
18	<u>construction and installation of the renewable energy facility and other</u>
19	<u>structures.</u>
20	
21	2.) Fisheries Use Protection Standards
22	The regulating agencies shall protect areas important to fisheries using the
23	following use protection standards to evaluate the impact an individual
24 25	renewable energy facility would have on fisheries use.
25 26	
20 27	(a) Definition of Terms
21 28	i Advorse Effect for Fisheries Use Protection Standards: a significant
20 29	<u>reduction in the access of commercial and recreational fishers to an</u>
30	area spatially delineated as an area important to a single fishing
31	sector, multiple combined sectors, or to the fishing community of a
32	particular port.
33	ii. Presumptive Exclusion Fisheries Use Protection Standards: the
34	assumption that the distribution and importance of fisheries use
35	within an area would preclude siting a renewable energy facility
36	based on the potential adverse effects of that development on those
37	identified resources and uses. To overcome the presumptive
38	exclusion, an applicant must demonstrate and the regulating agency
39	must concur that the proposed project meets all applicable
40	standards for protecting the fisheries use subject to potential adverse
41	effects.
42	
43	(b) General Fisheries Use Protection Standard

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1	The following standards must be considered in determining the possible
2	adverse effects a renewable energy facility might have on fisheries use, and
3	are applicable to applications in all resource and use areas unless otherwise
4	designated by the plan:
5	
6	i. Minimize the displacement of fishers from traditional fishing areas.
7	and the related impact on the travel distance and routing required to
8	fish in alternative areas:
9	
10	ii. Minimize the compaction of fishing effort caused by the reduction in
11	the areas normally accessible to fishers:
12	
13	iii. Minimize the economic impact resulting from the reduction in area
14	available for commercial and recreational fishing for the effected
15	sectors and ports.
16	
17	iv. Mitigate possible hazards to navigation and, provide practicable
18	opportunities for vessel transit, at the project location.
19	
20	v. Limit the number and size of projects that are located in an area to
21	minimize the impact on a particular port or sector of the fishing
22	industry. Consider the distribution of projects and their cumulative
23	effects based on the criteria listed in (i) through (iv).
24	
25	(c) Area Designation Fisheries Use Protection Standards
26	The following standards apply to specific plan areas as delineated and
27	described in the map located in Part Five, Appendix B.
28	
29	i. Resources and Uses Conservation Areas (RUCA) Standards
30	The following standards apply to the protection of areas important
31	to fisheries within Resources and Uses Conservation Areas.
32	<b>Renewable energy facilities within RUCA are presumptively</b>
33	excluded from areas important to fisheries. To overcome the
34	presumptive exclusion, an applicant must demonstrate and the
35	regulating agency must concur that the project will have no
36	reasonably foreseeable adverse effect on areas important to fisheries
37	and there is no practicable alternative site.
38	
39	ii. Resource and Use Management Areas (RUMA) Standards
40	The following standards apply to the protection of areas important
41	to fisheries within Resources and Uses Management Areas.
42	<b>Renewable energy facilities within RUMA may locate within areas</b>
43	important to fisheries of high catch; high value fish in low
44	<u>abundance or low fishing effort; important on a seasonal basis, or;</u>

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1	important to individual ports or particular fleet, if the applicant
2	demonstrates and the regulating agency concurs that the project will
3	have no significant adverse effect on areas important to fisheries.
4	
5	iii. Renewable Energy Facility Suitability Study Area (REFSSA)
6	Standards
7	The following standards apply to the protection of areas important
8	to fisheries within Renewable Energy Facility Suitability Study
9	Areas. Renewable energy facilities may locate within REFSSA
10	based on a resource and use inventory evaluation of recreational and
11	commercial fisheries, and the application of the standards listed
12	under subparagraphs g.1 and g.2.b. if applicable.
13	
14	3.) Ecological Resources Protection Standards
15	The state shall protect living marine organisms, the biological diversity of marine
16	life, the functional integrity of the marine ecosystem, important marine habitat
17	and associated biological communities by using the following ecological resource
18	protection standards to evaluate marine renewable energy project proposals.
19	protection buildurab to evaluate marme renewable energy project proposation
20	(a) Definition of Terms
21	
22	i. Adverse Effect for Ecological Resource Protection Standards:
23	degradation in ecosystem function and integrity (including but not
24	limited to direct habitat damage, burial of habitat, habitat erosion.
25	reduction in biological diversity) or degradation of living marine
26	organisms (including but not limited to abundance, individual
27	growth, density, species diversity, species behavior).
28	ii. Presumptive Exclusion for Ecological Resource Protection
29	Standards: the assumption that the distribution and importance of
30	ecological resources within an area would preclude the siting of a
31	renewable energy facility based on the potential adverse effects of
32	that project on those identified resources.
33	iii. Important. Sensitive, or Unique (ISU) Area: The state has identified
34	particularly important, sensitive and unique ecological resources
35	(ISUs), with the intention of providing them the highest level of
36	protection from the effects of renewable energy development while
37	allowing existing beneficial uses. ISU areas include both the discrete
38	locations of the ISU resources and bounding polygons ( <i>i.e.</i> buffers)
39	intended to provide adequate room for species foraging or other
40	activities: protection from disturbance of the ISU resource: or both.
41	Project developers shall consult with the Oregon Department of Fish
42	and Wildlife (ODFW) and plan the project build-out consistent with
43	ODFW recommended buffers prior to filing application materials
44	with regulating agencies Currently delineated ISU resources are
• •	man regulating agencies. Currently demicated 100 resources are

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1	located within RUCA. The identified ISU resources are known to be
2	especially vulnerable to development impacts due to high
3	concentration of the resource in a small area or the nature of the
4	resource. The state may change the list of ISUs in the future
5	(through addition or deletion of ISU from list or through updating
6	the distribution of an ISU) as new data become available.
7	<b>Regulating agencies will apply the ISU standard where ISUs are</b>
8	discovered outside the RUCA. Currently, ISUs include:
9	Rock habitat (including kelp beds, seagrass beds, subtidal
10	reefs, and rocky intertidal);
11	Pinniped haulout areas;
12	• Seabird nesting colonies; and
13	• Estuary and river mouths (especially those that support
14	salmon)
15	
16	iv. Each ISU area includes the discrete locations of the ISU resources
17	plus bounding polygons ( <i>i.e.</i> buffers) that are intended to provide
18	adequate room for species foraging or other activities, or protection
19	of the ISU resource from disturbance from a renewable energy
20	facility while allowing existing beneficial uses. Project developers
21	shall consult with ODFW to calculate the ISU area (i.e. determine
22	protection buffers) prior to filing application materials with
23	regulating agencies.
24	
25	For rock resources, regulating agencies will apply a buffer of
26	<b>1000 feet (0.164 nautical miles) to account both for rock reef</b>
27	species foraging and disturbance from development.
28	<ul> <li>For seabird nesting colonies and pinniped haulouts,</li> </ul>
29	regulating agencies will apply a buffer of between 1000 and
30	2000 feet (0.164-0.329 nautical miles) depending on the
31	inhabitants (species, abundance, critical nature of the colony
32	<u>or haulout).</u>
33	
34	v. Ecological Resources of Concern:
35	<u>Critical marine habitats (including but not limited to critical</u>
36	habitats as defined in the Endangered Species Act, and high-use
37	<u>areas),</u>
38	<ul> <li>Other important marine habitats,</li> </ul>
39	Fish and shellfish stocks and other biologically important species
40	(including but not limited to seabirds and mammals),
41	<u>Recreationally or commercially important finfish or shellfish</u>
42	<u>species,</u>
43	<ul> <li><u>Planktonic and benthic flora and fauna</u>,</li> </ul>

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1	Other elements important to the marine ecosystem, including but
2	not limited to:
3	<ul> <li><u>ecosystem structure</u>,</li> </ul>
4	<ul> <li><u>biological productivity</u>,</li> </ul>
5	$\circ$ <u>species density</u> ,
6	o <u>biological diversity,</u>
7	$\circ$ representative species assemblages, and,
8	Marine species migration routes.
9	
10	(b) Area Designation Ecological Resources Protection Standards
11	The following standards apply to specific plan areas as delineated and
12	described in the map located in Part Five, Appendix B.
13	
14	i. Resources and Uses Conservation Areas (RUCA) Standards:
15	<b>Renewable energy facilities are presumptively excluded from ISU</b>
16	areas delineated within a RUCA.
17	(a) If the regulating agency concurs, the applicant may overcome
18	the presumptive exclusion by a demonstration that:
19	1) there is no practicable alternative site outside an ISU area
20	that is less environmentally damaging (when evaluating
21	the project proposal, the regulating agencies shall not
22	consider project cost as a factor when determining
23	whether practicable alternatives exist), and;
24	2) the project will have no reasonably foreseeable adverse
25	effects on the ISUs located at the project site and off-site
26	ISUs potentially affected by the project.
27	
28	(b) Renewable energy facilities shall have no significant adverse
29	effect on areas that provide intense foraging for several
30	important species.
31	(c) <b>Renewable energy facilities shall have no significant adverse</b>
32	effect on ecological resources of concern.
33	
34	ii. Resources and Uses Management Areas (RUMA) Standards:
35	(a) <b>Renewable energy facilities shall have no significant adverse</b>
36	effects on areas that provide intense foraging for several
37	important species.
38	(b) Renewable energy facilities shall have no significant adverse
39	effects on ecological resources of concern.
40	
41	(c) The ISU standard, as applied within a RUCA, shall apply to
42	ISU resources that are delineated within a RUMA.
43	

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1	iii. Renewable Energy Facility Suitability Study Area (REFSSA)
2	Standards:
3	These areas have been identified as having the lowest potential for
4	conflict between renewable energy facilities and ecological resources.
5	(a) Ecological Resources of Concern: Renewable energy facilities
6	shall have no significant adverse effects on ecological resources of
° 7	
8	(b) The ISU standard, as applied within a RUCA, shall apply to
9	ISU resources that are delineated within a REFSSA.
10	150 resources that are demonster within a rest 551.
11	4.) Recreational Resources Standards
12	The state shall protect recreational resources as a beneficial use of the
13	territorial sea. The standards for recreational resources shall be applied to all
14	renewable energy facility projects throughout the territorial sea, unless
15	otherwise provided by the plan. A determination of impact is based on the
16	inventory of recreational uses contained in the man (Part Five, Appendix R).
17	
18	(a) Renewable energy projects may not have a significant adverse effect on
19	areas of high or important use for recreational activities. A significant
20	adverse effect occurs when:
20	i. Access is denied or unreasonably impeded:
22	ii. The project creates reasonably foreseeable health or safety impacts:
23	
24	iii. The project would have reasonably foreseeable significant impacts
25	on the natural environment that the recreational community
26	depends on.
27	
28	(b) Areas of high or important use for recreational activities occur where there
29	is
30	i. Community of historical users;
31	ii. High intensity of use; or
32	iii. Uniqueness or a special quality associated with the recreational use
33	<u>relative to the state or region.</u>
34	
35	5.) Visual Resource Protection Standards
36	The regulating agencies shall protect visual resources ( <i>i.e.</i> viewsheds of the
37	<u>territorial sea) by applying the following visual resource protection standards</u>
38	to evaluate the potential impact of proposed renewable energy projects on the
39	affected viewsheds. Most renewable energy projects will be subject to
40	regulations for navigational safety that may require visual contrast with the
41	environment. The standards below are based on an evaluation of visual
42	<u>contrast, which cannot be avoided or mitigated for the purposes of navigational</u>
43	<u>safety.</u>
44	

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1	The following standards rely on an overlay of delineated ocean viewsheds that
2	has been incorporated into the map (Part Five, Appendix B). Regulating
3	agencies will apply these standards to projects in all designated areas within
4	the territorial sea.
5	
6	(a) Classification of Viewsheds
7	The following classification system categorizes viewshed sites based on a set
8	of objective criteria related to the unique setting, aesthetic qualities and
9	physical properties of each site. Each viewshed class has a specific objective
10	that determines the level of activity that would be compatible with
11	maintaining the character of the viewshed. The class objectives and project
12	review criteria are used to determine the impact a project has on each
13	affected viewshed. A single project may impact multiple viewsheds, and
14	will be subject to the associated visual subordination standard for each of
15	them. The JART will provide the applicant with the list of affected
16	viewsheds for which the applicant must conduct simulations to determine if
17	the project meets the standards described for the affected viewshed class.
18	
19	i. Class I: The objective of this class is to preserve the existing
20	character of the seascape. This class provides for natural ecological
21	changes; however, it does not preclude very limited development
22	activity. The level of change to the characteristic seascape must be
23	very low and may not attract attention.
24	
25	ii. Class II: The objective of this class is to retain the existing character
26	of the seascape. The level of change to the characteristic seascape
27	must be low. Development activities may be seen, and may attract
28	minimal attention, but may not dominate the view of the casual
29	observer.
30	
31	iii. Class III: The objective of this class is to partially retain the existing
32	character of the seascape. The level of change to the characteristic
33	seascape may be moderate. Development activities may be seen, and
34	may attract attention but may not dominate the view of the casual
35	observer.
36	
37	iv. Class IV: The objective of this class is to provide for development
38	activities which require major modifications of the existing character of
39	the seascape. The level of change to the characteristic seascape can be
40	high. These development activities may dominate the view and be the
41	major focus of viewer attention. However, every attempt shall be made
42	to minimize the impact of these activities through careful location,
43	minimal disturbance, and repeating the basic elements.
44	

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1	(b) Project Review Criteria
2	In order to determine whether the proposed project meets the standards
3	defined for each Class of viewshed, regulating agencies will consider the
4	following contrast criteria for the visible portion of the proposed renewable
5	energy facility for which the applicant has produced visual simulations for
6	the affected viewsheds selected by the JART.
7	
8	i. Distance from viewpoint. The contrast created by a project usually is
9	less as viewing distance increases.
10	
11	ii. Angle of Observation. The apparent size of a project is directly
12	related to the angle between the viewer's line-of-sight and the slope
13	upon which the project is to take place.
14	
15	iii. Length of Time the Project Is In View. If the viewer has only a brief
16	glimpse of the project, the contrast may not be of great concern. If,
17	however, the project is subject to view for a long period, as from an
18	overlook, the contrast may be very significant.
19	
20	iv. Relative Size or Scale. Project contrast is directly related to project
21	size and scale as compared to the surroundings in which it is located.
22	This should include consideration of project size (e.g., number of
23	devices) along with size of the individual devices and associated
24	structures along with layout and spacing. For example, minimizing
25	horizontal spread of the layout may reduce contrast.
26	_
27	v. Season of Use. Contrast ratings should consider the physical
28	conditions that exist during the heaviest or most critical visitor use
29	season.
30	
31	vi. Light Conditions. Light conditions can substantially affect the
32	amount of contrast. The direction and angle of lighting can affect
33	<u>color intensity, reflection, shadow, from, texture, and many other</u>
34	visual aspects of the seascape. Light conditions during heavy use
35	periods must be a consideration in contrast ratings.
36	
37	<u>vii. Spatial Relationships. The spatial relationship within a seascape is a</u>
38	<u>major factor in determining the degree of contrast. For example,</u>
39	projects in areas that are the "focus of key views" like a headland or
40	large offshore rocks could have a higher contrast.
41	
42	viii. Atmospheric Conditions. The visibility of projects due to
43	atmospheric conditions such as fog or natural haze should be
44	<u>considered.</u>

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1	
2	ix. Motion, lights and color. Movement and lighting draw attention to a
3	project and vary depending on conditions and time of day and night.
4	Surface treatment (e.g., color) may increase or decrease visibility.
5	
6	x. Shore-based facilities. Associated shore-based facilities (e.g.,
7	buildings, cables etc.) should also be considered in the visual impact
8	analysis.
9	
10	6.) Proprietary Use and Management Area (PUMA) Standards
11	A PUMA is an area wherein there are one or more authorized uses or special
12	management designations, including but not limited to, undersea fiber-optic or
13	scientific research cable corridors, navigation channel and pilotage safety
14	corridors, and state or federal habitat management areas. Regulating agencies
15	will not accept a renewable energy facility application in a PUMA unless the
16	use is legally permissible and complies with the authorized use of the area.
17	Applications for projects within a PUMA are subject to the resources and uses
18	review standards that apply to the type of resources or uses area the PUMA is
19	located in, as delineated by the Map Designations in Appendix B.
20	
21	7.) Project Development Limitations and Constraints
22	The total amount of area within the territorial sea that is to be built or
23	committed for renewable energy facilities is limited both on a statewide and
24	regional basis.
25	
26	(a) The total area that is built and committed to marine renewable energy
27	development, based on the area permitted and leased for that use, shall not
28	exceed a maximum of three percent of the total area of the territorial sea.
29	
30	(b) The total area that is built and committed to marine renewable energy
31	development, based on the area permitted and leased for that use, shall not
32	exceed a maximum of one percent of the total area within a 60 nautical mile
33	arc as measured from the mouths of the Columbia River estuary, the
34	Newport estuary, and the Coos Bay estuary.
35	
36	(c) The total area designated as REFSSA in the plan shall not exceed five
37	percent of the total area of the territorial sea.
38	
39	C. Application Requirements
40	
41	<b><u>1. Pre-Application</u></b>
42	The regulating agency shall require the applicant to participate in a pre-application
43	conference before an application is submitted.
44	

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- <u>2. Financial Capacity</u>
   <u>The regulating agency shall assure that an applicant has the financial capacity to</u>
   <u>complete the application process before resources are committed to review of the</u>
   <u>application.</u>
   <u>3. Application Fee</u>
   <u>7 The application must include all information required by applicable rules of the</u>
   regulating agency, as well as any applicable fee for review of the application.
- 9

### 10 **<u>D.</u>** Operation Plan Development

The regulating agency shall require the applicant to submit an operation plan as a condition of 11 approval for a state or federal permit, license, lease or other authorization for renewable energy 12 facility development. The operation plan must explain the procedures and mechanisms that the 13 14 operator will employ so that the facility will comply with regulatory standards and other conditions of permit or license approval related to water and air quality, adverse environmental 15 effects, maintenance and safety, operational failure and incident reporting. The operation plan 16 17 shall be designed to prevent or mitigate harm or damage to the marine and coastal environment 18 and at a minimum shall include the following information:

19 20

#### 1. Phased Development Plan

21 A regulating agency may require that a facility be developed in phases in order to determine 22 whether the environmental effects of the structures and the operation of the facility are 23 consistent with the inventory and effects evaluation conducted under subsection B.4. The 24 requirements for an operation plan listed in this section would apply to each stage of the 25 phased development so as to account for any changes in design, technology or operation that may result from monitoring the initial phase of the operation. The state and federal-26 27 joint agency review team The JART, as discussed in subsection B.3 will assist the 28 developer in assessing the environmental effects of the initial phase and in determining 29 what, if any, changes in the development and operation of future phases of the facility 30 might be necessary to mitigate or prevent harm or damage to the marine ecosystem.

31

A facility that has been developed to the full extent of its design and operating capacity may, during the lifetime of its authorization, require systematic improvements to the technology, structures and operational procedures that were originally authorized. The regulating agency willshall require a new facility development plan, as appropriate and necessary, to provide the data and information for the redevelopment and operation of the new facility components.

38 39

40 41

#### 2. Facility Development Plan

A plan is required that describes the physical and operational components of the proposed facility and must contain, at minimum, detailed technical information, data, protocols and references for:

42 43 44

a. Structural and project design, materials used, anchoring and installation information;
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2 **c.** A description of the deployment activities: 3 **d.** A listing of chemical products used; 4 e. A description of vessels, vehicles, aircraft and the transit lanes that will be used; 5 **f.** A general description of the operating procedures and systems; 6 g. Construction schedule; and 7 **h.** Other information as required by the Department of State Lands. 8 9 3. Project Operation Plan 10 An operation plan is required that describes, at a minimum, information regarding the 11 routine environmental monitoring, safety management and emergency response procedures, 12 facility inspections, and the decommissioning of the project. The operation plan 13 shouldshall explain the procedures and mechanisms that will be employed so that the 14 facility will comply with regulatory standards and other conditions of permit or license 15 approval related to water and air quality, environmental protection and mitigation, facility maintenance and safety, operational failure and incident reporting. An operation plan 16 17 willshall include the following information: 18 19 a. Contingency Plan: 20 A plan to describe how the facility operator will respond to emergencies caused by a 21 structural or equipment failure due to human error, weather, geologic or other natural 22 event. The plan shouldshall include a description of the types of equipment, vessels 23 and personnel that would be deployed, the chain of command or management structure 24 for managing the facility repairs, recovery or other forms of remedial action, and the 25 process and timeline for notification of state and federal authorities. 26 27 **b.** Inspection Plan: 28 A plan to provide for the implementation of a routine inspection program to ensure the 29 mechanical, structural and operational integrity of renewable energy project facilities 30 and other related structures, equipment or facilities. In addition, unscheduled 31 inspections are toshall be required after any major geologic or meteorologic event to 32 ensure continued operational safety and environmental protection. 33 34 c. Monitoring Plan: 35 A plan to provide for the implementation of a routine standardized monitoring program 36 for potential impacts on specific resources as specified by the resource inventory and 37 effects evaluation. The operator shall monitor activities related to the operation of the 38 facility and demonstrate that its performance satisfies specified standards in its 39 approved plans. Monitoring shall be sufficient to accurately document and quantify the 40 short-term and long-term effects of the actions on the affected resources and uses. 41 Plans for monitoring mustshall include, at a minimum: 42 43 1<del>)</del>.) A list of the information needed to satisfy an effects evaluation. 44

**b.** All cables and pipelines, including lines on project easements;

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1

1 2 3	2).)Specific study objectives to obtain the needed information and explanation of how the study design will meet the objectives.
4	3 <del>).)</del> Description of study methods to meet the objectives, such as:
5	
6	A <u>(a)</u> Literature review;
7	<b>B</b> ( <b>b</b> ) Collection of needed baseline data;
8	$\underline{C(\mathbf{c})}$ Hypotheses to address the study objectives;
9	$\mathbf{D}(\mathbf{d})$ Descriptions of field sampling and data-analyses methods to be used; and
10	$E(\underline{e})$ Use of adequate controls, such as control sites, to allow the effects of the
11	proposed action to be separated from natural fluctuations in resources and
12	habitats.
13	
14	4.) The monitoring plan willshall include supporting documentation demonstrating
15	that the study design is scientifically appropriate and statistically adequate to
16	address the research objectives. $28^{29}$
17	
18	4) <u>5.</u> The monitoring plan will <u>shall</u> include a description of the method that
19	will be used to report and deliver data and analyses information to the
20	authorizing state agency for review in a timely and efficient manner. <sup>30</sup>
21	
22	6.) The monitoring plan will include a description of the process for periodic
23	and ongoing public involvement and review of the monitoring work.
24	
25	d. Adaptive Management Plan
26	An adaptive management plan to provide a mechanism for incorporating new findings
27	and new technologies into the operation and management of the project. The adaptive
28	management plan shall include performance standards that are based on results of the
29	resource inventory and effects evaluation and incorporated in the study design of the
30	monitoring plan as described in paragraph C.3.c (Monitoring Plan), above.). The plan
31	willshall explain the processes for how adaptation measures are applied to the operation
32	of the project. When the monitoring results show that the performance standards are
33	not being met due to the operation of the facility, adaptation measures designed to bring
34	the operation into compliance with the performance standard will be applied to the

a Before, After, Control, Impact (BACI) experimental study design.

<sup>&</sup>lt;sup>29</sup> Standardized monitoring protocols would result in data sets that are comparable and transferable among sites and technologies. The protocols would include a Before, After, Control, Impact (BACI) experimental study design.

<sup>&</sup>lt;sup>30</sup> Example: the data and analysis will be applied to determine if conditions meet the standard established under the Oregon Department of Environmental Quality rule for "Biocriteria" at OAR 340-041-0011, which provides "Waters of the State must be of sufficient quality to support aquatic species without detrimental changes in the resident biological communities."

1	operation of the project. The adaptive management plan will explain processes for how
2	adaptation measures will be applied to the operation and management of the project.
3	The adaptive management plan should account for:
4	
5	1).) Variable conditions in the marine environment;
6	2).) Change in the status of resources;
7	3). New information provided by monitoring of the project;
8	4).) Data and information provided by research and from other sources;
9	5).)New technologies that would provide for greater protection of ocean resources;
10	6).) Ocean fisheries, or other ocean uses to be protected from adverse effects and
11	operational conflicts; and
12	7) <u>.)</u> Unanticipated cumulative effects.
13	
14	4. Decommissioning Plan:
15	An applicant is required to shall provide a plan to restore the natural characteristics of the
16	site to the extent practicable by describing the facilities to be removed. $2^{31}$ The plan should
17	include; a proposed decommissioning schedule; a description of removal and containment
18	methods; description of site clearance activities; plans for transporting and recycling,
19	reusing, or disposing of the removed facilities; a description of those resources, conditions,
20	and activities that could be affected by or could affect the proposed decommissioning
21	activities; results of any recent biological surveys conducted in the vicinity of the structure
22	and recent observations of marine mammals at the structure site; mitigation measures to
23	protect archaeological and sensitive biological features during removal activities; and a
24	statement as to the methods that will be used to survey the area after removal to determine
25	any effects on marine life. A decommissioning plan should identify how the project owner
26	will restore the site to the natural condition that existed prior to the development of the site,
27	to the extent practicable.

<sup>&</sup>lt;sup>31</sup> The requirement for a decommissioning plan is based upon DSL rules under OAR chapter 141, division 140. Under OAR 141-140-0080(5)(e), the holder of a temporary use authorization or lessee is required to:

The decommissioning of the transmission cable is required under OAR 141-083-0850(6), which provides:

"If determined necessary by [DSL] in consultation with the easement holder and other interested parties, and if permitted by the applicable federal agency(ies) regulating the cable, the easement holder shall remove the cable from the state-owned submerged and submersible land within one (1) year following the termination of use of the cable or expiration of the easement."

<sup>&</sup>quot;Remove ocean energy monitoring equipment, ocean energy facilities and any other material, substance or related or supporting structure from the authorized area as directed by the Department within a period of time to be established by the Department as a condition of the authorization. If the holder of the temporary use authorization or lessee fails or refuses to remove such equipment, facility or other material, substance or related or supporting structure, the Department may remove them or cause them to be removed, and the holder of the authorization or lessee shall be liable for all costs incurred by the State of Oregon for such removal."

## Financial Assurance Plan:

3 The applicant mustshall provide a financial assurance compliance plan that describes their 4 ability to how the holder will comply with the state regulating agency requirements for 5 financial assurance instruments to guarantee performance, and any other. The plan must assure that the financial terms and conditions that may assurance provided by the holder 6 7 will be applied. Wavesufficient to cover the estimated costs of: (1) removal and recovery of the facility or portions of the facility lost or damaged through an accident; 8 9 (2) damages to vessels and equipment owned by third parties through an accident; and (3) decommissioning and removal of the facility upon the termination of its 10 11 authorization(s). Holders of authorizations for renewable energy facilities or devices shall comply with theapplicable state financial assurance requirements of, including but 12 not limited to: ORS 274.867,3 and the implementing administrative rules of the 13 14 Department of State Lands, OAR chapter 141, division 140-0080 and OAR 141-140-0090. In addition, the regulating agency shall determine whether the holder will have the 15 technical, organizational and financial capacity to construct, operate and 16 17 decommission and remove the proposed facility. 18 19 6. Agreements: 20 Applicants are required toshall communicate with traditional ocean users and stakeholders with an interest in the area of the proposed project to address issues of concern. $4^{32}$ 21 Applicants are encouraged to memorialize agreements with those ocean users and 22 23 stakeholders on the specific actions, including conducting the adaptive management and 24 monitoring plan, that the applicant will take is required to address their issues of concern. 25 perform. 26 27 **D.E.** Northwest National Marine Renewable Energy Center Mobile Test **Berth Site** 28 29 30 1. Test Berth Site Plan 31 The **purpose of the** Northwest National Marine Renewable Marine Energy Center mobile 32 test berth site (NNMREC) Ocean Test Site is established to conduct experimental

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<sup>&</sup>lt;sup>32</sup> The Department of State Lands rule on Pre-Application Requirements, OAR 141-140-0040, provides:

<sup>&</sup>quot;Before submitting an application to the Department, a person wanting to install, construct, operate, maintain or remove ocean energy monitoring equipment or an ocean energy conversion facility for a research project, demonstration project or commercial operation shall meet with: "(a) Department staff to discuss the proposed project; and

<sup>&</sup>quot;(a) Department staff to discuss the proposed project; and

<sup>&</sup>quot;(b) Affected ocean users and other government agencies having jurisdiction in the Territorial Sea to discuss possible use conflicts, impacts on habitat, and other issues related to the proposed use of an authorized area for the installation, construction, operation, maintenance or removal of ocean energy monitoring equipment or an ocean energy facility."

1       marine renewable energy device testing. A primary function of the NNMREC Ocean         2       Test Site is to understand the environmental effects of various marine renewable         3       energy devices, in addition to the amount of energy produced by the various         4       technologies.         6       1. The Mobile Ocean Test Berth Site         7       The purpose of the NNMREC Mobile Ocean Test Berth (MOTB) site at Newport is to         8       conduct short-term experimental testing of marine         9       thedevices. This site will be used for short-term deployments of individual wave         9       energy devices in conjunction with or independently of The Ocean Sentinel, a         10       ocean test berth facility This site is not grid-connected.         12       2.       Test BerthRegulating Agency Authorizations for MOTB       Site Use         14       An application for a permit, license, or other authorization for the installation and use of the         16       Northwest National Marine Renewable Energy Center mobile test berth site.operation at         17       -An experimental or test device or other structure for use at the Northwest National Marine         18       -An experimental or test device or other structure for use at the Northwest National Marine         19       Renewable Energy Center mobile test berth site is required to that seeks permission to use         10<			
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<ul> <li>10 energy devices in conjunction with or independently of The Ocean Sentinel, a mobile</li> <li>11 ocean test berth facility. This site is not grid-connected.</li> <li>12</li> <li>2. Test BerthRegulating Agency Authorizations for MOTB Site Use</li> <li>An application for a permit, license, or other authorization for the installation and use of the</li> <li>Northwest National Marine Renewable Energy Center mobile test berth site, operation at</li> <li>the NNMREC MOTB site is not subject to the requirements of sections B or C, above.</li> <li>-An experimental or test device or other structure for use at the Northwest National Marine</li> <li>Renewable Energy Center mobile test berth site is required to that seeks permission to use</li> <li>the NNMREC MOTB site, shall obtain any applicable license, permit or-</li> <li>authorization.licenses, permits or Department of State Lands authorizations.</li> <li>F. Plan Review</li> <li>Territorial Sea Plan Part Five shall be subject to review by the Ocean Policy Advisory</li> <li>Council (OPAC) no longer than seven years after it has been adopted or when one</li> </ul>	9		thedevices. This site will be used for short-term deployments of individual wave
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16       the NNMREC MOTB site is not subject to the requirements of sections B or C, above.         17      An experimental or test device or other structure for use at the Northwest National Marine         19      An experimental or test device or other structure for use at the Northwest National Marine         19       Renewable Energy Center mobile test berth site is required to that seeks permission to use         20       the NNMREC MOTB site, shall obtain any applicable license, permit or         21       authorization.licenses, permits or Department of State Lands authorizations.         22       23         23       F. Plan Review         24       Territorial Sea Plan Part Five shall be subject to review by the Ocean Policy Advisory         25       Council (OPAC) no longer than seven years after it has been adopted or when one	15		Northwest National Marine Renewable Energy Center mobile test berth site, operation at
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<ul> <li>20 <u>the NNMREC MOTB site, shall</u> obtain any applicable license, permit or authorization.licenses, permits or Department of State Lands authorizations.</li> <li>22</li> <li>23 <u>F. Plan Review</u> 24 <u>Territorial Sea Plan Part Five shall be subject to review by the Ocean Policy Advisory</u> 25 <u>Council (OPAC) no longer than seven years after it has been adopted or when one</u></li> </ul>	19		Renewable Energy Center mobile test berth site is required to that seeks permission to use
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24Territorial Sea Plan Part Five shall be subject to review by the Ocean Policy Advisory25Council (OPAC) no longer than seven years after it has been adopted or when one	23	F.	Plan Review
25 Council (OPAC) no longer than seven years after it has been adopted or when one	24		Territorial Sea Plan Part Five shall be subject to review by the Ocean Policy Advisory
	25		Council (OPAC) no longer than seven years after it has been adopted or when one
26 percent of the Territorial Sea has been permitted and the facilities developed for	26		percent of the Territorial Sea has been permitted and the facilities developed for
27 renewable energy facilities, whichever occurs first. OPAC may, at any time, choose to	27		renewable energy facilities, whichever occurs first. OPAC may, at any time, choose to
initiate an amendment of the plan through the process described under Part One.	28		initiate an amendment of the plan through the process described under Part One.
29 section F.2, Changing the Plan and ORS 196.443(1)(a).	29		section F.2, Changing the Plan and ORS 196.443(1)(a).

30

1	
2	Part Five Appendix A: Definitions and Terms
3	
4	As used in The following definitions shall apply to Part Five, unless the context requires
5	otherwise <del>, the following definitions shall apply</del> :
6	
7	Adverse Effect for Ecological Resource Protection Standards: degradation in ecosystem
8	function and integrity (including but not limited to direct habitat damage, burial of
9	habitat, habitat erosion, reduction in biological diversity) or degradation of living marine
10	organisms (including but not limited to abundance, individual growth, density, species
11	diversity, species behavior).
12	Advance Effect for Fighering Use Protection Standards, a significant reduction in the
13 14	Adverse Effect for Fisheries Use Frotection Standards. a significant reduction in the
15	important to a single fishing sector, multiple combined sectors, or to the fishing
16	community of a particular port.
17	community of a particular porta-
18	<b>Applicant:</b> An applicant for a state permit, license, lease or other authorization for renewable
19	energy facilities development or other related structures, equipment or facilities will be referred
20	to as "the applicant"." or "project developer"
21	
22	Areas important to fisheries: (Goal 19)
23	a.) areas of high catch ( <i>e.g.</i> , high total pounds landed and high value of landed catch); or
24	b.) areas where highly valued fish are caught even if in low abundance or by few fishers; or
25	c.) areas that are important on a seasonal basis; <del>or</del>
26	d.) areas important to commercial or recreational fishing activities, including those of
27	individual ports or particular fleets; or
28	e.) habitat areas that support food or prey species important to commercially and recreationally
29	caught fish and shellfish species.
30	
31	Conservation: a principle of action guiding Oregon's Oregon's ocean-resources management,
32	which seeks to protect the integrity of marine ecosystems while giving priority to the protection
33	and wise use of renewable resources over nonrenewable; as used in the Oregon Ocean
34 25	Resources Management Plan, the act of conservation means — that the integrity, diversity,
33 26	stability, complexity, and the productivity of marine biological communities and their nabitals
30	" <u>accommodat</u> accommodate (ing) the needs for economic development while avoiding
38	wasteful uses and maintaining future availability "(Territorial Sea Plan Appendix A: Glossary
39	of Terms)
40	
41	Critical marine habitat: means one or more of the following land and water areas:
42	a.) areas designated as ""critical habitat" in accordance with federal laws governing threatened
43	and endangered species; or
	V.12413 (SS edit)

**OREGON TERRITORIAL SEA PLAN** Part Five: Use of the Territorial Sea for the Development of Renewable Energy Facilities or Other Related Structures, Equipment or Facilities Page 32 of 39

- 1 b.) areas designated in the Territorial Sea Plan as either:
- 1.) as needed for the survival of animal or plant species listed by state or federal laws as
  ""threatened", "", "endangered", or ""sensitive". Such areas might include special areas
  used for feeding, mating, breeding/spawning, nurseries, parental foraging, overwintering,
  or haul out or resting. This isdesignation does not intended to limit the application of
  federal law regarding threatened and endangered species; or
- 7 2.) <u>""unique"</u> (*i.e.* one of a kind in Oregon) habitat for scientific research or education
- 8 within the Oregon territorial sea. (Territorial Sea Plan, Part Two)
- 9

10 **Ecosystem:** the living and non-living components of the environment which interact or

11 function together, including plant and animal organisms, the physical environment, and the

12 energy systems in which they exist. All the components of an ecosystem are interrelated.

- 13 (Oregon Statewide Planning Goals)
- 14

Habitat: the environment in which an organism, species, or community lives. Just as humans
live in houses, within neighborhoods, within a town or geographic area, within a certain region,

and so on, marine organisms live in habitats which may be referred to at different scales. (*see* 

- 18 also <u>""</u>critical marine habitat<u>", "", "</u>important marine habitat<u>")")</u> (Territorial Sea Plan
- 19 Appendix A: Glossary of Terms)
- 20
- 21 **Important marine habitat:** (Goal 19) are areas and associated biologic communities that are:
- 22 a.) important to the biological viability of commercially or recreationally caught species or that
- 23 support important food or prey species for commercially or recreationally caught species; <del>or</del>
- 24 b.) needed to assure the survival of threatened or endangered species; or
- c.) ecologically significant to maintaining ecosystem structure, biological productivity, and
   biological diversity; or
- 27 d.) essential to the life-history or behaviors of marine organisms; or

e.) especially vulnerable because of size, composition, or location in relation to chemical or

- 29 other pollutants, noise, physical disturbance, alteration, or harvest; or
- 30 f.) unique or of limited range within the state.
- 31

32 Important marine habitats must be specifically considered when an inventory-information and

-effects evaluation<u>assesment</u> is conducted pursuant to Goal 19: including but not limited to:

habitat necessary for the survival and conservation of Oregon renewable resources (*e.g.* areas

35 for spawning, rearing, or feeding), kelp and other algae beds, seagrass beds, seafloor gravel

- 36 beds, rock reef areas and areas of important fish, shellfish and invertebrate concentration.
- 37 (Oregon Statewide Planning (Goal 19).
- 38

# 39 <u>Impact: is the severity, intensity, or duration of the effect, and can be either or both</u> 40 <u>positive or negative outcomes.</u>

41

## 42 Minimize: to reduce or avoid the effect to the extent practicable.

V.12413 (SS edit)

**OREGON TERRITORIAL SEA PLAN** Part Five: Use of the Territorial Sea for the Development of Renewable Energy Facilities or Other Related Structures, Equipment or Facilities Page 33 of 39

1	
2	Mitigate: is the avoidance or minimization of a direct or indirect ecological effect or
3	impact on a receptor through engineering or operational modification of the project.
4	Mitigation does not refer herein to so-called "offsite" mitigation or to compensatory
5	mitigation (i.e., paying or compensating for environmental damage).
6	
7	Phased development projects: Renewable energy facility developments which are limited in
8 9	scale and area, but are designed to produce energy for commercial use.
10	Precautionary Approach: the application of a planning and regulatory decision making
1	system that accounts for circumstances where information about marine resources and
12	uses is limited, and there are increased levels of risk and uncertainty related to the
13	outcome of the action. The principle of the precautionary approach is found in the
14	Management Measures provided in Part One, section G. and in Goal 19 Ocean Resources.
15	
16	Presumptive Exclusion for Ecological Resource Protection Standards: the assumption
17	that the distribution and importance of ecological resources within an area would
18	preclude the siting of a renewable marine energy facility based on the potential adverse
19	effects of that development on those identified resources.
20	encers of that development on those identified resources.
21	Presumptive Exclusion for Fisheries Use Protection Standards: the assumption that the
21 ))	distribution and importance of fisheries use within an area would preclude the siting a
22	renewable marine energy facility based on the notantial adverse effects of that
23	development on those identified resources and uses
2 <del>4</del> )5	development on those identified resources and uses.
.) )6	Project, see "reneweble energy facility or facilities" helew
.0	roject: see renewable energy facility of facilities below.
./	
28	roject Developer: see "applicant" adove.
9	
00	<b>Regulating agency or regulating agencies</b> : State and federal agencies making decisions to
51	authorize the siting, development and operation of renewable energy facilities development or
32	other related structures, equipment or facilities within the Oregon Territorial Sea.
3	
34	<b>Renewable Energy Facility or Facilities:</b> The term "renewable energy facilities development
35	or other related structures, equipment or facilities," means energy conversion technologies and
36	devices that convert the energy or natural properties of the water, waves, wind, current or
37	thermal to electrical energy, including all associated buoys, anchors, energy collectors, cables,
38	control and transmission lines and other equipment that are a necessary component of an
39	energy conversion device research project, demonstration project or commercial operation. The
10	terms "renewable energy facility" or "renewable energy facilities" are used to describe any and
41	all components of these developments.

- 1 <u>Seascape: the coastal landscape and adjoining areas of open water, including views from</u>
- 2 land to sea, from sea to land and along the coastline. A seascape has areas of sea, coastline
- 3 and land.
- 4 Viewshed: the natural environment that is visible from one or more fixed viewpoints. For
- 5 the purposes of Part Five, these are areas within the territorial sea as seen from
- 6 **<u>viewpoints on shore.</u>**

$\frac{1}{2}$	Part Five Appendix B: Endnotes Map Designations
23	The man information and data contained and referenced herein designate areas
4	within the territorial sea that are subject to section B.4., Resource and Use Inventory
5	and Effects Evaluation and Special Resource and Use Review Standards. The maps
6	delineate areas within the territorial sea based on the resources and uses present
7	within them, and to which the review standards apply.
8	Within mong and to which the review Sundar as approv
9	Territorial Sea Plan Resources and Uses Area Map Designations:
10	The area descriptions below apply to the map designations incorporated into Part
11	Five, Appendix B.
12 13	Renewable Energy Permit Area (REPA): these areas are delineated sites for which
14	there is an existing authorization for the development of renewable energy testing.
15	research or facilities. Applications for renewable energy facilities within a REPA
16	must comply with the terms and conditions required by the regulating agency
17	authorization for the site. The total area of renewable energy facility sites authorized
18	as REPA may not exceed two percent of the territorial sea (25.2 sq. miles or 19 sq.
19	nautical miles).
20	
21	Renewable Energy Facility Suitability Study Area (REFSSA): an area wherein there
22	may be ecological resources, or activities relating to commercial fishing sectors,
23	recreational fishing, or individual ports. Renewable energy facilities may be sited
24	within a REFSSA. Renewable energy facility development in these areas is
25	anticipated to have the lowest potential adverse effects on inventoried marine
26	resources and uses within state waters. A renewable energy facility proposal in a
27	<b>REFSSA must comply with Part Five, paragraphs B.4.a through f., and section C, and</b>
28	the applicable regulatory and proprietary requirements of state and federal agencies.
29	<u>The total area for REFSSA may not exceed five percent of the territorial sea (63 sq.</u>
30	<u>miles or 47.5 sq. nautical miles).</u>
31	
32	Resources and Uses Management Area (RUMA): an area wherein there are important
33	or significant ecological resources or areas that are economically important to
34	commercial fishing sectors, recreational fishing, or individual ports. Renewable
35	energy facilities may be sited within a RUMA. Under some circumstances there is a
36	potential for renewable energy facility development to have significant adverse effects
37	on inventoried marine resources and uses within these areas. A project proposal for
38	MRE development in a RUMA must demonstrate that itthe project will have no
39	significant adverse effects on inventoried marine resources and uses as determined by
40	the standards for protecting those resources and uses in that area. Based on the map
41	designations in Appendix C, the RUMA are X square miles (X sq. nautical miles)
42	covering X% of the territorial sea.
43	

R	esources and Uses Conservation Area (RUCA): an areas wherein there are
ir	nportant, significant, or unique (ISU) ecological resources, or an area that is of
si	gnificant economic importance to commercial fishing sectors, recreational fishing, or
ir	ndividual ports. MRE developmentA renewable energy facility could be sited within
<u>a</u>	<b>RUCA, though there is a high potential that most types of MRE</b>
d	evelopmentprojects would have significant adverse effects on inventoried marine
r	esources and uses within the area. A project proposal for MRE development in a
R	<b>CUCA must demonstrate that the iproject will have no reasonably foreseeable adverse</b>
e	ffects on inventoried marine resources and uses as determined by the standards for
p	rotecting those resources and uses in that area. Based on the map designations in
A	ppendix C, the RUCA are X square miles (X sq. nautical miles) covering X% of the
te	erritorial sea.
R	tenewable Energy Exclusion Area (REEA): special management areas. These areas
C	ontain permitted or managed uses that have some form of exclusive right or
a	uthority to exclude, restrict or control other uses in that area, . Examples of these
ty	ypes of authorizations including e dredge material disposal sites, marine reserves and
n	narine protected areas. Regulating agencies will not accept renewable energy facility
a	Applications for MRE development will not be accepted within a REEA. Based on
tł	ne map designations in Appendix C, the REEA are X square miles (X sq. nautical
n	niles) covering X% of the territorial sea.
P	roprietary Use and Management Area (PUMA): areas wherein there are authorized
u	ses and special management designations. These areas are subject to some form of
a	uthority to restrict or control other uses. Examples of these types of authorizations
ir	nclude undersea fiber-optic or scientific instrumentation, cable corridors, and
n	avigation channel and pilotage safety corridors. R egulating agencies will not accept
r	enewable energy facility MRE applications in these areas will not be accepted by
r	egulating agencies unless the use is legally permissible and , complies with the
a	uthorized use of the area., and has been agreed to by the authorized users. Based on
tł	ne map designations in Appendix C, the PUMA are X square miles (X sq. nautical
	ilas) converting V0/ of the termiterial acc
n	mes) covering x % of the territorial sea.

This Appendix lists the provisions of Part 5 that constitute the "enforceable policies" for         Federal Consistency purposes, under the CZMA and pursuant to the Federal Consistency         Regulations at 15 CFR Part 930. The federal Coastal Zone Management Act requires         that certain federally permitted or licensed activities that affect coastal uses or resources.         must be conducted in a manner consistent with the enforceable policies of a state's.         federally approved coastal management program. When reviewing federal decisions to         permit or license renewable energy facilities for consistency with the OCMP the         Department of Land Conservation and Development will apply the following sections of         TSP Part 5 as enforceable policies:         Note: The exact text for each of the section below will be included here once the text is         finalized and approved.         Section B.4. Resource and Use Inventory and Effects Evaluation and Special Resource         and Use Review Standards         B.4.d. Inventory Content         B.4.d. Inventory Content         B.4.d. Did Project         B.4.g. Did Project         B.4.g. Special Resources and Use Review Standards         B.4.g.1)       Cheneral siting and development requirements         B.4.g.2)       Fisherice Use Protection Standards         B.4.g.3)       Ecological Resource Protection Standards         B.4.g.4)       R	1	Part Five Appendix CD: Enforceable Policies Subject to Federal Consistency
Federal Consistency purposes, under the CZMA and pursuant to the Federal Consistency         Regulations at 15 CFR Part 930. The federal Coastal Zone Management Act requires.         that certain federally permitted or licensed activities that affect coastal uses or resources.         must be conducted in a manner consistent with the enforceable policies of a state's.         federally approved coastal management program. When reviewing federal decisions to         permit or license renewable energy facilities for consistency with the OCMP the         Department of Land Conservation and Development will apply the following sections of         TSP Part 5 as enforceable policies:         ************************************	2	This Annondiv lists the provisions of Part 5 that constitute the "onforceable policies" for
5       Regulations at 15 CFR Part 930. The federal Coastal Zone Management Act requires. that certain federally permitted or licensed activities that affect coastal uses or resources. must be conducted in a manner consistent with the enforceable policies of a state's federally approved coastal management program. When reviewing federal decisions to permit or license renewable energy facilities for consistency with the OCMP the Department of Land Conservation and Development will apply the following sections of TSP Part 5 as enforceable policies:         13       Note: The exact text for each of the section below will be included here once the text is finalized and approved.         14       Section B.4. Resource and Use Inventory and Effects Evaluation and Special Resource and Use Review Standards         18       B.4.a. Sufficiency of Resource and Use Inventory and Effects         19       B.4.d. Inventory Content         20       B.4.d. Inventory Content         21       B.4.d. Inventory Content         22       B.4.d. Inventory Content         23       B.4.d. Inventory Content         24       B.4.d. Inventory Content         25       B.4.g.)         26       B.4.g.2)         27       B.4.g.2)         28       B.4.g.2)         29       B.4.g.2)         30       Content Standards         31       B.4.g.2)         32       Fisheries Use Protection Standards	3 4	Federal Consistency purposes, under the CZMA and pursuant to the Federal Consistency
that certain federally permitted or licensed activities that affect coastal uses or resources must be conducted in a manner consistent with the enforceable policies of a state's.         federally approved coastal management program. When reviewing federal decisions to permit or license renewable energy facilities for consistency with the OCMP the Department of Land Conservation and Development will apply the following sections of TSP Part 5 as enforceable policies:         Note: The exact text for each of the section below will be included here once the text is finalized and approved.         Section B.4. Resource and Use Inventory and Effects Evaluation and Special Resource and Use Review Standards         B.4.d. Inventory Content         B.4.d. B.4.d. Inventory Content         B.4.d. Inventory Content         B.4.d.	5	Regulations at 15 CFR Part 930. The federal Coastal Zone Management Act requires
7       must be conducted in a manner consistent with the enforceable policies of a state's.         8       federally approved coastal management program. When reviewing federal decisions to         9       permit or license renewable energy facilities for consistency with the OCMP the         0       Department of Land Conservation and Development will apply the following sections of         11       TSP Part 5 as enforceable policies:         12       Note: The exact text for each of the section below will be included here once the text is.         13       Note: The exact text for each of the section below will be included here once the text is.         14       finalized and approved.         15       Section B.4. Resource and Use Inventory and Effects Evaluation and Special Resource and Use Review Standards         16       Section B.4. Resource and Use Inventory and Effects         17       and Use Review Standards         18       B.4.a. Sufficiency of Resource and Use Inventory and Effects         19       B.4.d. Inventory Content         20       B.4.e. Written Evaluation         21       B.4.f.2.       Pilot Project         23       B.4.f.3.       Phased Development         24       B.4.g.2.       Fisheries Use Protection Standards         25       B.4.g.1.       General siting and development requirements         26	6	that certain federally permitted or licensed activities that affect coastal uses or resources
8       federally approved coastal management program. When reviewing federal decisions to         9       permit or license renewable energy facilities for consistency with the OCMP the         10       Department of Land Conservation and Development will apply the following sections of         11       TSP Part 5 as enforceable policies:         12       Note: The exact text for each of the section below will be included here once the text is         13       Note: The exact text for each of the section below will be included here once the text is         14       finalized and approved.         15       Section B.4. Resource and Use Inventory and Effects Evaluation and Special Resource and Use Review Standards         16       Section B.4. Resource of Resource and Use Inventory and Effects         17       and Use Review Standards         18       B.4.a. Sufficiency of Resource and Use Inventory and Effects         19       B.4.d. Inventory Content         20       B.4.e. Written Evaluation         21       B.4.f.2)       Pilot Project         32       B.4.g.1)       General siting and development requirements         23       B.4.g.2)       Fisheries Use Protection Standards         24       B.4.g.3)       Ecological Resource Standards         25       B.4.g.4)       Recreational Resource Standards         26	7	must be conducted in a manner consistent with the enforceable policies of a state's
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