

1 Oregon Territorial Sea Plan

2
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**

7
8 PART FIVE of the Oregon Territorial Sea Plan¹ describes the process for making
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
18 Oregon’s renewable energy portfolio lists ocean energy as a renewable energy source with
19 potential to reduce dependence on fossil fuels.¹² Renewable ~~ocean~~ energy facilities
20 development may present opportunities to apply technologies that rely on wind, wave,
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
25 appropriate manner, in accordance with the requirements of this Part and other

¹ See Part One, section C for the Oregon Territorial Sea and Territorial Sea Plan description

² 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:

“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:

“(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.

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

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Commented [LA1]: NOTE:

The bulk of the text edits to Part 5, as shown in ~~strikeouts~~ and **Bold text additions** were recommended in 2013. Recommended changes made to the document by the department in 2018 are shown in **highlighted strikeouts**, and **Red Bold Text**.

1 applicable state and federal authorities, renewable ocean energy may help preserve
2 Oregon’s natural resources and enhance our quality of life.

3
4 **A. Renewable Energy Facilities Development**

5
6 **1. Background**

7 Oregon’s territorial sea has been identified as a favorable location for siting renewable energy
8 facilities for research, demonstration and commercial power development. These facilities may
9 vary in the type and extent of the technologies employed and will require other related
10 structures, equipment or facilities to connect together, anchor to the seafloor and transfer
11 energy to on-shore substations. The State of Oregon will require the proper siting and
12 development of these facilities in order to minimize damage to or conflict with other existing
13 ocean uses and to reduce or avoid adverse effects on marine ecosystems and coastal
14 communities.

15
16 State agencies, including the Oregon Departments of State Lands, Fish and Wildlife, Parks and
17 Recreation, Environmental Quality, Land Conservation and Development, Water Resources,
18 Energy, and Geology and Mineral Industries, need specific policies and standards for
19 considering the siting and regulation of renewable energy facility development in the territorial
20 sea. ~~The State also needs specific policies and standards to guide~~ **data and information**
21 **within the Territorial Sea Plan should also assist** federal agencies in the siting and regulation
22 of renewable energy facilities development located in federal waters adjacent to the ~~Oregon~~
23 territorial sea.³⁴

24
25 ***NOTE: Notwithstanding Part One, paragraph F.1.b, the following policies and***
26 ***implementation requirements are mandatory. Decisions of state ~~and federal~~ agencies⁵ with***
27 ***respect to approvals of permits, licenses, leases or other authorizations to construct, operate,***
28 ***maintain, or decommission any renewable energy facility to produce, transport or support***
29 ***the generation of renewable energy within Oregon’s territorial waters and ocean shore must***
30 ***comply with the requirements mandated in the ~~Oregon~~ Territorial Sea Plan. ~~The Once~~***
31 ***NOAA/OCRM approves the incorporation of the enforceable policies (see Part Five,***
32 ***Appendix D) of the Territorial Sea Plan ~~and into~~ the Oregon Coastal Management Program,***
33 ***they are applicable to those federal actions that affect Oregon’s coastal zone and are subject***
34 ***to the federal consistency requirements of the federal Coastal Zone Management Act.***

35 **2. Policies**

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

⁴ 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.

⁵ 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”.

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1 The following policies apply generally to renewable energy facilities within the Oregon
2 Territorial Sea, and establish the guiding principles for the implementation requirements listed
3 in ~~sections~~**sections B and C**. When making decisions to authorize the siting, development,
4 operation, and decommissioning of renewable energy facilities within the territorial sea, ~~state~~
5 ~~and federal~~ **regulating** agencies shall**6**:

- 6
7 **a.** Maintain and *protect* renewable marine resources (*i.e.* living marine organisms),
8 ecosystem integrity, *marine habitat* and *areas important to fisheries* from adverse
9 effects that may be caused by the installation or operation or removal of renewable
10 energy facility by requiring that such actions:
- 11 1.) Avoid adverse effects to the integrity, diversity, stability and complexity of the
12 marine ecosystem and coastal communities, and give first priority to the conservation
13 and use of renewable marine resources;
 - 14 2.) Minimize effects by limiting the degree or magnitude of the action and its
15 implementation;
 - 16 3.) Rectify or mitigate the effects that occur during the lifetime of the ~~facility~~**project** by
17 monitoring and taking appropriate corrective measures through adaptive management;
18 and
 - 19 4.) Restore the natural characteristics of a site to the extent practicable when the ~~facility~~
20 ~~and structures are~~ **project is** decommissioned and removed;
21
- 22
23 **b.** ~~Protect marine~~ renewable **marine** resources;~~;~~ the biological diversity and
24 functional integrity of ~~the~~ marine ecosystem, important marine habitat, areas important
25 to fisheries, navigation, recreation and aesthetic enjoyment ~~as required by Statewide~~
26 ~~Planning (see also~~ Goal 19-);
27
28 ~~Promote direct communication and collaboration between~~ **c. Communicate and**
29 **collaborate with** an applicant for a state or federal authorization for the siting,
30 development and operation of renewable energy facilities and affected ocean users and
31 coastal communities to reduce or avoid conflicts.~~Agencies will strongly;~~
32
33 **e. Strongly** encourage applicants to engage with local, state and federal agencies,
34 community stakeholders, tribal governments and affected ocean users in a collaborative
35
36
37

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

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1 agreement-seeking process prior to formally requesting authorization to initiate a
2 project.^{7,8}

3
4 **d. e.** Limit the potential for unanticipated adverse impacts by requiring, ~~as necessary~~
5 **when resource inventory and effects information is insufficient**, the use of pilot
6 projects and phased development to collect data and study the effects of the
7 development on the affected marine resources and uses; **and**

8
9 **e. f.** Encourage the research and responsible development of ocean-based renewable
10 energy sources including wave, tidal, and wind that meet the state’s need for economic
11 and affordable sources of renewable ocean energy.

12 13 **B. Implementation Requirements**

14
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
24 substation.⁹ The requirements in Part Two, Making Resource Use Decisions, ~~Sections~~**sections**
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 28 **1. Siting: areas designated for renewable energy facilities development.**

29 30 **a. In State Waters:**

31 Pursuant to the requirements for amending the Territorial Sea Plan under ORS 196.471,
32 to carry out the policies of the Oregon Ocean Resources Management Act and

⁸ 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.

⁹ 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.

1 consistent with the statewide planning goals, the Land Conservation and Development
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**
5 **projects within those designated areas (see section B.4).**¹¹ Renewable energy
6 facilities development of the state lands of the territorial sea lying seaward of Extreme
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
10 protect: renewable marine resources, biological diversity and functional integrity of
11 marine ecosystem, important marine habitat, and areas important to fisheries, as ~~defined~~
12 **in Statewide Planning provided in** Goal 19 Ocean Resources.

13
14 **b. In Federal Waters:**

15 The Department of Land Conservation and Development will review federal decisions
16 to permit, license, or otherwise authorize renewable energy facilities ~~development~~
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 Zone **CZMA review, shall** be supported

Program.”

¹¹ 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. 13 the 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 **3. 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

14 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.”

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- 1 **a. DSL will invite representatives from the following agencies, jurisdictions and**
2 **organizations to be members of the JART:**
3 **1.) Departments of Fish and Wildlife, Parks and Recreation, Environmental**
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 **team** **application 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 **1.) The JART will coordinate the with DSL¹⁵ 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 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.¹⁶**
32 **4.) The JART will also consider and make recommendations on** 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
36 standards, or any other special conditions that a regulating state agency may apply
37 pursuant to the lease, permit, license or other authorization.

¹⁵ OAR chapter 141, division 140 establishes and prescribes the pre-application process for renewable energy facilities within the territorial sea.

¹⁶ 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.

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1
2 DSL shall require that an applicant provides documentation verifying their
3 communication and coordination efforts with local communities, interest groups and
4 advisory committees. Those efforts shall, at a minimum, include information on the
5 proposed project operation protocols, response to emergencies and procedures for
6 on-going communication as specified in section C.(5.) The JART
7 recommendations are advisory; regulating agencies who are members of the
8 JART still operate in accordance with their own rules and statutory mandates.

9 6.) DSL may acquire the services of technical experts to assist the JART in
10 analyzing specific subject information such as marine business economics and
11 operations, as necessary to conduct the application review.

12 Operation Plan Development), below.

13
14 **4. Resource and Use Inventory and Effects Evaluation and Special Resource and Use**
15 **Review Standards**

16
17 Regulating agencies will require the An applicant to must provide a resource inventory and
18 effects evaluation, as required by this subsection the regulating agencies the data and
19 information to complete the Resource and Use Inventory and Effects Evaluation and
20 apply the Special Resource and Use Review Standards, prior to the regulating agencies
21 making any decision.¹⁷ State agencies will assist the applicant by providing readily
22 available data and other information as applicable to the review process. An applicant
23 may use relevant inventory information included in a project application to a federal
24 agency to meet the requirements of this subsection.

25
26 **a. Sufficiency of Purpose of the Resource and Use Inventory and Effects Evaluation**
27 The resource inventory and effects evaluation shall be sufficient to identify and quantify
28 the short-term Special Resource and long-term effects of the proposed renewable
29 energy facility development on the affected marine resources and uses. Use Review
30 Standards

31
32 **b. Purpose of the Effects Evaluation**

33 The purpose of the effects evaluation is to determine whether the proposed actions can
34 meet the policies and standards for the protection of resources, resource users and
35 coastal communities referred to above in subsection A.2 (Policies), above. The
36 evaluation The purpose of the Resource and Use Inventory and Effects Evaluation
37 and Special Resource and Use Review Standards is to provide the regulating
38 agencies the data and information necessary to make a decision based on the
39 potential coastal effects the project might incur. Resource and Use Inventory and
40 Effects Evaluation and Special Resource and Use Review Standards will help
41 identify where the applicant needs to address deficiencies. The regulating agency will

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

1 use the evaluation to develop specific measures for environmental protection and
2 mitigation, measures to protect ocean uses, monitoring, and adaptive management.
3

4 **b. Sufficiency of Resource and Use Inventory and Effects Evaluation**

5 An applicant must provide information and data to complete the Resource and Use
6 Inventory and Effects Evaluation and apply the Special Resource and Use Review
7 Standards that is sufficient to identify and quantify the short-term and long-term
8 effects of the proposed renewable energy facility development on the affected
9 marine resources and uses.
10

11 **c. Use of Available Environmental Information**

12 Regulating agencies may allow the applicant to use existing data and information from
13 ~~any source~~ **other authoritative sources, including NEPA documents**, when complying
14 with the requirements for resource inventory ~~the Resource~~ and effects evaluation. All
15 data ~~Use Inventory~~ and information used for the inventory ~~Effects Evaluation~~ and
16 evaluation, including existing data from federal environmental impact statements or
17 assessments, shall meet the same standards of adequacy required for the
18 inventory ~~Special Resource~~ and the evaluation ~~Use Review Standards~~.
19

20 **d. Inventory Content**

21 To evaluate the magnitude of the proposed project, the likelihood of ~~the project~~ effects
22 ~~of the project~~, and the significance of the resources and uses that the project may affect,
23 regulating agencies shall require that the applicant include consideration of ~~the~~
24 ~~following factors in the inventory:~~ **certain factors in the inventory. The Resource**
25 **and Use Inventory and Effects Evaluation and Special Resource and Use Review**
26 **Standards requirements apply to all renewable energy facility projects for which**
27 **an applicant pursues a DSL proprietary authorization, unless the requirements**
28 **are waived by DSL or otherwise addressed in another subsection of the plan. In**
29 **addition to the resource inventory and effects evaluation content of this paragraph,**
30 **projects are also subject to the Special Resource and Use Review Standards**
31 **specified in paragraph B.4.g.**
32

- 33 1) ~~Proposed factors associated with.~~ **Information regarding** the development,
34 placement, operation, maintenance, and decommissioning of the project:
35 ~~A~~(a) Location (using maps, charts, descriptions, etc.);
36 ~~B~~(b) Numbers and sizes of equipment, structures;
37 ~~C~~(c) Methods, techniques, activities to be used;
38 ~~D~~(d) Transportation and transmission systems needed for service and support;
39 ~~E~~(e) Materials to be disposed of and method of disposal;
40 ~~F~~(f) Physical and chemical properties of hazardous materials, if any, to be used
41 or produced;
42 ~~G~~(g) Navigation aids; and
43 ~~H~~(h) Proposed time schedule.
44

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- 1 2.) Location and description of all affected areas, including, but not limited to:
2 A(a) Site of the renewable energy facility;
3 B(b) Adjacent areas that may be affected by physical changes in currents and
4 waves caused by the ~~facility~~**project**;
5 C(c) Utility corridor transiting the territorial sea and ocean shore; and
6 D(d) Shoreland facilities.
7
- 8 3.) Physical and chemical conditions including, but not limited to:
9 A(a) Water depth;
10 B(b) Wave regime;
11 C(c) Current velocities;
12 D(d) Dispersal, horizontal transport, and vertical mixing characteristics;
13 E(e) Meteorological conditions; and
14 F(f) Water quality.
15
- 16 4.) Bathymetry (bottom topography) and Shoreline Topography (LIDAR (Light
17 Detection ~~And~~**and** Ranging))
18
- 19 5.) Geologic structure, including, but not limited to:
20 A(a) Geologic hazards, such as faults or landslides of both marine and shoreline
21 facility areas;
22 B(b) Mineral deposits;
23 C(c) Seafloor substrate type; and
24 D(d) Hydrocarbon resources.
25
- 26 6.) Biological features, including, but not limited to:
27 A(a) Critical marine habitats (*see* **Part Five**, Appendix A);
28 B(b) Other marine habitats;
29 C(c) Fish and shellfish stocks and other biologically important species;
30 D(d) Recreationally or commercially important finfish or shellfish species;
31 E(e) Planktonic and benthic flora and fauna;
32 F(f) Other elements important to the marine ecosystem; and
33 G(g) Marine species migration routes.
34
- 35 7.) Cultural, economic, and social uses affected by the ~~project~~**renewable energy**
36 **facility**, including, but not limited to:
37 A(a) Commercial and sport fishing;
38 B(b) State or ~~Federally~~**federally** protected areas;
39 C(c) Scientific research;
40 D(d) Ports, navigation, and ~~Dredge Material Disposal~~**dredge material disposal**
41 sites;
42 E(e) Recreation;
43 F(f) Coastal ~~Communities Economy~~**communities economy**;
44 G(g) Aquaculture;

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- ~~H~~(h) Waste water or other discharge;
- ~~I~~(i) Utility or pipeline corridors and transmission lines;
- ~~J~~(j) Military ~~Uses~~uses; and
- ~~K~~(k) Aesthetic ~~Resources~~resources.

8.) Significant historical, cultural or archeological resources.

9.) Other data that the regulating agencies determine to be necessary and appropriate to evaluate the effects of the proposed project.

e. Written Evaluation.

Regulating agencies shall require the applicant to submit a written evaluation of all the reasonably foreseeable adverse effects associated with the development, placement, operation, and decommissioning of the proposed renewable energy facility. For purposes of the evaluation, the submittal shall base the determination of “reasonably foreseeable adverse effects” on scientific evidence. **The information and data to comply with the Special Resources and Uses Standards is specified in paragraph B.4.g.** The evaluation shall describe the potential short-term and long-term effects of the proposed renewable energy facility on marine resources and uses of the **Oregon** territorial sea, continental shelf, onshore areas and coastal communities based on the inventory data listed in paragraph B.4.d ~~above~~ and the following considerations:

1) ~~1~~ 1) Biological and Ecological Effects:

Biological and ecological effects include those on critical marine habitats and other habitats, and on the species those habitats support. The evaluation ~~will~~**shall** determine the probability of exposure and the magnitude of exposure and response, as well as the level of confidence (or uncertainty) in those determinations. The evaluation need not discuss highly speculative consequences. However, the evaluation ~~will~~**shall** discuss catastrophic environmental effects of low probability. Factors to consider include, but are not limited to:

- ~~A~~(a) The time frames/periods over which the effects will occur;
- ~~B~~(b) The maintenance of ecosystem structure, biological productivity, biological diversity, and representative species assemblages;
- ~~C~~(c) Maintaining populations of threatened, endangered, or sensitive species;
- ~~D~~(d) Vulnerability of the species, population, community, or the habitat to the proposed actions; and
- ~~E~~(e) The probability of exposure of biological communities and habitats to adverse effects from operating procedures or accidents.

2) ~~2~~ 2) Current Uses:

Evaluate the effects of the project on current uses and the continuation of a current use of ocean resources such as fishing, recreation, navigation, and port activities. Factors to consider include, but are not limited to:

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- 1 ~~A~~(a) Local and regional economies;
2 ~~B~~(b) Archeological and historical resources; and
3 ~~C~~(c) Transportation safety and navigation.
4

5 3) Natural and Other Hazards

6 Evaluate the potential risk to the renewable energy facility, in terms of its
7 vulnerability to certain hazards and the probability that those hazards may cause
8 loss, dislodging, or drifting of structures, buoys, or facilities. Consider both the
9 severity of the hazard and the level of exposure it poses to the renewable marine
10 resources and coastal communities. Hazards to be considered ~~should~~**shall** include
11 the scouring action of currents on the foundations and anchoring structures, slope
12 failures and subsurface landslides, faulting, tsunamis, variable or irregular bottom
13 topography, weather related, or due to human cause.
14

15 4.) Cumulative Effects

16 Evaluate the cumulative effects of a project, including the shoreland component, in
17 conjunction with effects of any prior phases of the project, past projects, other
18 current projects, and probable future projects.¹⁸¹⁹ The evaluation ~~should~~**shall**
19 analyze the biological, ecological, physical, and socioeconomic effects of the
20 renewable energy facility development and of other renewable energy facility
21 projects along the Oregon coast, while also taking into account the effects of
22 existing and future human activities and the regional effects of global climate
23 change.
24

25 ~~A~~(a) In conducting the cumulative effects analysis, the applicant ~~should~~**shall**
26 focus on the specific resources and ~~ecological components~~**uses**, as detailed
27 under paragraph B.4.d ~~above~~, that may be affected by the incremental effects of
28 the proposed project and other projects in the same geographic area. The
29 evaluation ~~should consider~~**shall include but not be limited to consideration of**
whether:

- 30 ~~1) i.~~ **i.** the resource ~~is~~**and uses are** especially vulnerable to incremental effects;
31 ~~2) ii.~~ **ii.** the proposed project is one of several similar projects in the same
32 geographic area;
33 ~~3) iii.~~ **iii.** other developments in the area have similar effects on the
34 ~~resource~~**resources and uses;**

¹⁹ 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 4iv.) these effects have been historically significant for ~~this~~the resource **and**
2 uses; and

3 5v.) other analyses in the area have identified a cumulative effects concern.

4
5 B) The ~~Joint Agency Review Team may determine the scope~~JART shall make
6 recommendations as to the adequacy of the cumulative effects analysis ~~through a~~
7 ~~set of guidelines developed by JART that regulating agencies will~~shall require of
8 the applicant for phased development projects as described ~~below~~ under
9 subparagraph B.4.f.3 and subsection C.1. The JART will ~~make a determination~~
10 ~~from use~~ the analysis to inform the location, scale, scope and technology of
11 subsequent stages of the phased development project; ~~to provide input on any other~~
12 ~~factors it determines to be relevant; or both. The renewable energy,~~

13
14 **5.) Adaptive Management**

15 Regulating agencies and the project developer will conduct a comprehensive
16 cumulative effects analysis at the initial phase of a development designed to inform
17 future phases of development. ~~The regulating agencies and project developer~~
18 ~~will~~shall use adaptive management ~~or a similar process~~and monitoring to evaluate
19 the project at each subsequent phase; the intent of such evaluation is to inform the
20 design, installation and operation of successive phases.

21
22 **f. Insufficient/Incomplete Information**

23 **f. Pilot and Phased Development Projects**

24 An applicant may not be able to obtain or provide the information required by
25 subsection B.4 (Resource and Use Inventory and Effects Evaluation and Special
26 Resource and Use Review Standards), ~~above~~, due to the lack of data available about
27 the effect that the proposed development may have on environmentalmarine resources
28 and uses. When ~~a regulating agency~~JART recommends and DSL determines that the
29 information provided by the applicant is not sufficient or complete enough to fulfill the
30 requirements of subsection B.4, ~~the~~ a regulating agency has the following options:

31
32 1) .) Agency Discretion

33 The regulating agency may terminate the state permit decision-making process or
34 suspend the state permit process until the applicant provides the information.²¹

35
36 2) .) Pilot Project

²¹ 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.

1 The regulating agency may recommend that an applicant conduct a pilot project to
2 obtain adequate information and data and measure the effects.²² Pilot projects are
3 renewable energy facility developments which are removable or able to be shut
4 down quickly, are not located in sensitive areas, and are for the purpose of testing
5 new technologies or locating appropriate sites.~~23 The agency's decision to~~ ²⁴ A
6 regulating agency may allow the a project developer to use of a pilot project ~~is~~
7 for the purpose of obtaining the data and information necessary to fulfill the
8 requirements of subsection B.4., and shall be based on the following approval
9 criteria:

11 ~~A)~~ (a) The ~~exclusive~~ purpose of the pilot project ~~shall be~~ to provide
12 information on the performance, structural integrity, design, and environmental
13 effects of a specific renewable energy technology or its supporting equipment
14 and structures.

15 ~~B~~
16 (b) The applicant shall complete adequate inventories of baseline conditions, as
17 required by paragraph B.4.d (Inventory Content ~~above~~), ¹ prior to conducting the
18 pilot project.

19 ~~C~~
20 (c) The risk of adverse effects from the pilot project shall be insignificant,
21 because:

- 22
23 ~~1.~~ i. of low probability of exposure of biological communities and habitats;
24 ~~2.~~ ii. of low sensitivity of the biological communities and habitats to the
25 exposure; or
26 ~~3.~~ iii. the effects of exposure to sensitive communities and habitats will be
27 insignificant.

28
29 ~~D)~~ (d) The pilot project shall not adversely affect any “important marine habitat”
30 or “critical marine habitat” (see Part Five, Appendix A: Glossary of Terms).
31

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.

²⁴ 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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1 ~~E(e)~~ The pilot project will have a term, not to exceed five years, and
2 authorization for the project will include a standard condition requiring project
3 alteration or shutdown in the event that an unacceptable level of environmental
4 effect occurs.

5
6 ~~F(f)~~ The pilot project shall avoid significant or long-term interference with
7 other human uses of marine resources, and will require decommissioning and
8 site restoration at expiration of the authorization period if federal and state
9 authorization for a commercial renewable energy facility is not sought **and**
10 **approved**.

11
12 ~~G(g)~~ All data **necessary to meet the requirements of subsection B.4**, shall be
13 in the public domain subject to ORS 192.410 *et seq.*

14
15 ~~H(h)~~ Work Plan: The applicant shall provide a written work plan which will
16 include, but not be limited to the following: ~~25~~²⁶

- 17
18 ~~1i.~~ A list of the information needed to satisfy the requirements of
19 subsection B.4. ~~above.~~
20 ~~2. ii.~~ Specific pilot project objectives to obtain the needed information and
21 an explanation of how the study or test design will meet the objectives.
22 ~~3. iii.~~ Description of study or test methods to meet the objectives, such as:
23 Literature review;
24 Collection of any needed baseline data;
25 Hypotheses to address the study objectives;
26 Descriptions of field sampling and data-analyses methods to be
27 used; and
28 Use of adequate controls to allow the effects of the proposed
29 action to be separated from natural fluctuations in resources and habitats.
30
31 ~~4iv.~~ Supporting documentation demonstrating that the study design is
32 scientifically appropriate and statistically adequate to address the
33 research objectives.
34 ~~5v.~~ Descriptions of how the **project developer will report and deliver the**
35 data and analyses ~~will be reported and delivered~~ to the regulating agency
36 for review and approval.
37

pilot project from a short-term limited scope facility to a commercial operation scale facility.

²⁶ 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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1 **(i) A pilot project that provides the necessary and sufficient information**
2 **may become a phased development.**
3

4 ~~3.)~~ Phased Development

5 The regulating agency may recommend that an applicant conduct a project as a
6 phased development in order to obtain adequate information and data and to
7 measure the incremental effects of each phase prior to further or complete build-out
8 of the project.²⁷ Phased development projects are renewable energy facility
9 developments which are limited in scale and area, but are designed to produce
10 energy for commercial use. The applicant for a phased development project ~~will~~
11 ~~need to~~ **shall** comply with the requirements of subsection B.4. A regulating
12 ~~agency's decision to~~ **agency may** allow the use of a phased development project ~~is~~
13 ~~designed~~ to allow for commercial energy production while obtaining certain data
14 and information ~~that are~~ necessary to fulfill the requirements of subsection B.4., ~~but~~
15 **that** can only be obtained through the monitoring and study of the effects of the
16 development as it is installed and operated for a discrete period of time.
17

18 ~~g.~~ **Test Facility**

19 Applications for a permit, license, or other authorization for the installation and use of
20 an experimental or test device at the Northwest National Marine Renewable Energy
21 Center Mobile Test Berth Site zone, are not subject to the requirements of section B.
22 See section D: Northwest National Marine Renewable Energy Center Mobile Test Berth
23 Site, below, for the specific requirements for the use of these facilities.

24 ~~C.~~ **g. Special Resources and Uses Review Standards**

25 **In addition to the resource and use inventory and effects evaluation requirements,**
26 **special resource and use standards apply to specific areas within the territorial sea,**
27 **based on the delineation and definition of those areas in Part Five, Appendix B**
28 **Map Designations. The marine resources and uses addressed in this paragraph**
29 **are not intended to represent the exclusive subject matter of regulatory agency**
30 **review process. In applying the special resource and use review standards, the**
31 **regulating agencies shall use the best available maps and data. A regulating**
32 **agency may consider new information that it deems sufficient and applicable to the**
33 **review. The regulating agency will apply each standard in determining the**
34 **potential adverse effects of the proposed project based on best available science**
35 **and professional judgment. When confronting significant uncertainty regarding**
36 **the potential adverse effects of the proposed project, a regulating agency shall**
37 **apply the precautionary approach in decision-making.**
38

39 **1.) The following siting and development requirements apply to the construction,**
40 **deployment or maintenance of a renewable energy facility:**

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
2 (a) Consider practicable alternative deployment and placement of structures
3 in proximity to the proposed project area that would have less impact on
4 identified resources and uses.

5 (b) Minimize construction and installation activities during critical time
6 periods for the resources and uses as identified by appropriate regulatory
7 agencies.

8 (c) Minimize disturbance to the identified resources and uses during
9 construction and installation of the renewable energy facility and other
10 structures.

11
12 **2.) Fisheries Use Protection Standards**

13 The regulating agencies shall protect areas important to fisheries using the
14 following use protection standards to evaluate the impact an individual
15 renewable energy facility would have on fisheries use.

16
17 **(a) Definition of Terms**

18
19 **i. Adverse Effect for Fisheries Use Protection Standards: a significant**
20 **reduction in the access of commercial and recreational fishers to an**
21 **area spatially delineated as an area important to a single fishing**
22 **sector, multiple combined sectors, or to the fishing community of a**
23 **particular port.**

24 **ii. Presumptive Exclusion Fisheries Use Protection Standards: the**
25 **assumption that the distribution and importance of fisheries use**
26 **within an area would preclude siting a renewable energy facility**
27 **based on the potential adverse effects of that development on those**
28 **identified resources and uses. To overcome the presumptive**
29 **exclusion, an applicant must demonstrate and the regulating agency**
30 **must concur that the proposed project meets all applicable**
31 **standards for protecting the fisheries use subject to potential adverse**
32 **effects.**

33
34 **(b) General Fisheries Use Protection Standard**

35 **The following standards must be considered in determining the possible**
36 **adverse effects a renewable energy facility might have on fisheries use, and**
37 **are applicable to applications in all resource and use areas unless otherwise**
38 **designated by the plan:**

39
40 **i. Minimize the displacement of fishers from traditional fishing areas,**
41 **and the related impact on the travel distance and routing required to**
42 **fish in alternative areas;**
43

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1 ii. Minimize the compaction of fishing effort caused by the reduction in
2 the areas normally accessible to fishers;

3
4 iii. Minimize the economic impact resulting from the reduction in area
5 available for commercial and recreational fishing for the effected
6 sectors and ports.

7
8 iv. Mitigate possible hazards to navigation and, provide practicable
9 opportunities for vessel transit, at the project location.

10
11 v. Limit the number and size of projects that are located in an area to
12 minimize the impact on a particular port or sector of the fishing
13 industry. Consider the distribution of projects and their cumulative
14 effects based on the criteria listed in (i) through (iv).

15
16 **(c) Area Designation Fisheries Use Protection Standards**

17 **The following standards apply to specific plan areas as delineated and**
18 **described in the map located in Part Five, Appendix B.**

19
20 **i. Resources and Uses Conservation Areas (RUCA) Standards**

21 **The following standards apply to the protection of areas important**
22 **to fisheries within Resources and Uses Conservation Areas.**

23 **Renewable energy facilities within RUCA are presumptively**
24 **excluded from areas important to fisheries. To overcome the**
25 **presumptive exclusion, an applicant must demonstrate and the**
26 **regulating agency must concur that the project will have no**
27 **reasonably foreseeable adverse effect on areas important to fisheries**
28 **and there is no practicable alternative site.**

29
30 **ii. Resource and Use Management Areas (RUMA) Standards**

31 **The following standards apply to the protection of areas important**
32 **to fisheries within Resources and Uses Management Areas.**

33 **Renewable energy facilities within RUMA may locate within areas**
34 **important to fisheries of high catch; high value fish in low**
35 **abundance or low fishing effort; important on a seasonal basis, or;**
36 **important to individual ports or particular fleet, if the applicant**
37 **demonstrates and the regulating agency concurs that the project will**
38 **have no significant adverse effect on areas important to fisheries.**

39
40 **iii. Renewable Energy Facility Suitability Study Area (REFSSA)**
41 **Standards**

42 **The following standards apply to the protection of areas important**
43 **to fisheries within Renewable Energy Facility Suitability Study**
44 **Areas. Renewable energy facilities may locate within REFSSA**

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1 based on a resource and use inventory evaluation of recreational and
2 commercial fisheries, and the application of the standards listed
3 under subparagraphs g.1 and g.2.b, if applicable.

4
5 **3.) Ecological Resources Protection Standards**

6 The state shall protect living marine organisms, the biological diversity of marine
7 life, the functional integrity of the marine ecosystem, important marine habitat
8 and associated biological communities by using the following ecological resource
9 protection standards to evaluate marine renewable energy project proposals.

10
11 **(a) Definition of Terms**

- 12
13 **i. Adverse Effect for Ecological Resource Protection Standards:**
14 degradation in ecosystem function and integrity (including but not
15 limited to direct habitat damage, burial of habitat, habitat erosion,
16 reduction in biological diversity) or degradation of living marine
17 organisms (including but not limited to abundance, individual
18 growth, density, species diversity, species behavior).
- 19 **ii. Presumptive Exclusion for Ecological Resource Protection**
20 **Standards: the assumption that the distribution and importance of**
21 **ecological resources within an area would preclude the siting of a**
22 **renewable energy facility based on the potential adverse effects of**
23 **that project on those identified resources.**
- 24 **iii. Important, Sensitive, or Unique (ISU) Area: The state has identified**
25 **particularly important, sensitive and unique ecological resources**
26 **(ISUs), with the intention of providing them the highest level of**
27 **protection from the effects of renewable energy development while**
28 **allowing existing beneficial uses. ISU areas include both the discrete**
29 **locations of the ISU resources and bounding polygons (i.e. buffers)**
30 **intended to provide adequate room for species foraging or other**
31 **activities; protection from disturbance of the ISU resource; or both.**
32 **Project developers shall consult with the Oregon Department of Fish**
33 **and Wildlife (ODFW) and plan the project build-out consistent with**
34 **ODFW recommended buffers prior to filing application materials**
35 **with regulating agencies. Currently delineated ISU resources are**
36 **located within RUCA. The identified ISU resources are known to be**
37 **especially vulnerable to development impacts due to high**
38 **concentration of the resource in a small area or the nature of the**
39 **resource. The state may change the list of ISUs in the future**
40 **(through addition or deletion of ISU from list or through updating**
41 **the distribution of an ISU) as new data become available.**
42 **Regulating agencies will apply the ISU standard where ISUs are**
43 **discovered outside the RUCA. Currently, ISUs include:**

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- 1 • Rock habitat (including kelp beds, seagrass beds, subtidal
2 reefs, and rocky intertidal);
3 • Pinniped haulout areas;
4 • Seabird nesting colonies; and
5 • Estuary and river mouths (especially those that support
6 salmon)
7

8 **iv. Each ISU area includes the discrete locations of the ISU resources**
9 **plus bounding polygons (i.e. buffers) that are intended to provide**
10 **adequate room for species foraging or other activities, or protection**
11 **of the ISU resource from disturbance from a renewable energy**
12 **facility while allowing existing beneficial uses. Project developers**
13 **shall consult with ODFW to calculate the ISU area (i.e. determine**
14 **protection buffers) prior to filing application materials with**
15 **regulating agencies.**
16

- 17 • For rock resources, regulating agencies will apply a buffer of
18 1000 feet (0.164 nautical miles) to account both for rock reef
19 species foraging and disturbance from development.
20 • For seabird nesting colonies and pinniped haulouts,
21 regulating agencies will apply a buffer of between 1000 and
22 2000 feet (0.164-0.329 nautical miles) depending on the
23 inhabitants (species, abundance, critical nature of the colony
24 or haulout).
25

26 **v. Ecological Resources of Concern:**

- 27 • Critical marine habitats (including but not limited to critical
28 habitats as defined in the Endangered Species Act, and high-use
29 areas),
30 • Other important marine habitats,
31 • Fish and shellfish stocks and other biologically important species
32 (including but not limited to seabirds and mammals),
33 • Recreationally or commercially important finfish or shellfish
34 species,
35 • Planktonic and benthic flora and fauna,
36 • Other elements important to the marine ecosystem, including but
37 not limited to:
38 ○ ecosystem structure,
39 ○ biological productivity,
40 ○ species density,
41 ○ biological diversity,
42 ○ representative species assemblages, and,
43 • Marine species migration routes.

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1
2 **(b) Area Designation Ecological Resources Protection Standards**
3 **The following standards apply to specific plan areas as delineated and**
4 **described in the map located in Part Five, Appendix B.**
5

6 **i. Resources and Uses Conservation Areas (RUCA) Standards:**

7 **Renewable energy facilities are presumptively excluded from ISU**
8 **areas delineated within a RUCA.**

9 **(a) If the regulating agency concurs, the applicant may overcome**
10 **the presumptive exclusion by a demonstration that:**

11 **1) there is no practicable alternative site outside an ISU area**
12 **that is less environmentally damaging (when evaluating**
13 **the project proposal, the regulating agencies shall not**
14 **consider project cost as a factor when determining**
15 **whether practicable alternatives exist), and;**

16 **2) the project will have no reasonably foreseeable adverse**
17 **effects on the ISUs located at the project site and off-site**
18 **ISUs potentially affected by the project.**
19

20 **(b) Renewable energy facilities shall have no significant adverse**
21 **effect on areas that provide intense foraging for several**
22 **important species.**

23 **(c) Renewable energy facilities shall have no significant adverse**
24 **effect on ecological resources of concern.**
25

26 **ii. Resources and Uses Management Areas (RUMA) Standards:**

27 **(a) Renewable energy facilities shall have no significant adverse**
28 **effects on areas that provide intense foraging for several**
29 **important species.**

30 **(b) Renewable energy facilities shall have no significant adverse**
31 **effects on ecological resources of concern.**
32

33 **(c) The ISU standard, as applied within a RUCA, shall apply to**
34 **ISU resources that are delineated within a RUMA.**
35

36 **iii. Renewable Energy Facility Suitability Study Area (REFSSA)**
37 **Standards:**

38 **These areas have been identified as having the lowest potential for**
39 **conflict between renewable energy facilities and ecological resources.**

40 **(a) Ecological Resources of Concern: Renewable energy facilities**
41 **shall have no significant adverse effects on ecological resources of**
42 **concern.**

43 **(b) The ISU standard, as applied within a RUCA, shall apply to**
44 **ISU resources that are delineated within a REFSSA.**

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4.) Recreational Resources Standards

The state shall protect recreational resources as a beneficial use of the territorial sea. The standards for recreational resources shall be applied to all renewable energy facility projects throughout the territorial sea, unless otherwise provided by the plan. A determination of impact is based on the inventory of recreational uses contained in the map (Part Five, Appendix B).

(a) Renewable energy projects may not have a significant adverse effect on areas of high or important use for recreational activities. A significant adverse effect occurs when:

- i. Access is denied or unreasonably impeded;**
- ii. The project creates reasonably foreseeable health or safety impacts;**
- or**
- iii. The project would have reasonably foreseeable significant impacts on the natural environment that the recreational community depends on.**

(b) Areas of high or important use for recreational activities occur where there is

- i. Community of historical users;**
- ii. High intensity of use; or**
- iii. Uniqueness or a special quality associated with the recreational use relative to the state or region.**

5.) Visual Resource Protection Standards

The regulating agencies shall protect visual resources (i.e. viewsheds of the territorial sea) by applying the following visual resource protection standards to evaluate the potential impact of proposed renewable energy projects on the affected viewsheds. Most renewable energy projects will be subject to regulations for navigational safety that may require visual contrast with the environment. The standards below are based on an evaluation of visual contrast, which cannot be avoided or mitigated for the purposes of navigational safety.

The following standards rely on an overlay of delineated ocean viewsheds that has been incorporated into the map (Part Five, Appendix B). Regulating agencies will apply these standards to projects in all designated areas within the territorial sea.

(a) Classification of Viewsheds

The following classification system categorizes viewshed sites based on a set of objective criteria related to the unique setting, aesthetic qualities and physical properties of each site. Each viewshed class has a specific objective

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1 that determines the level of activity that would be compatible with
2 maintaining the character of the viewshed. The class objectives and project
3 review criteria are used to determine the impact a project has on each
4 affected viewshed. A single project may impact multiple viewsheds, and
5 will be subject to the associated visual subordination standard for each of
6 them. The JART will provide the applicant with the list of affected
7 viewsheds for which the applicant must conduct simulations to determine if
8 the project meets the standards described for the affected viewshed class.

9
10 i. Class I: The objective of this class is to preserve the existing
11 character of the seascape. This class provides for natural ecological
12 changes; however, it does not preclude very limited development
13 activity. The level of change to the characteristic seascape must be
14 very low and may not attract attention.

15
16 ii. Class II: The objective of this class is to retain the existing character
17 of the seascape. The level of change to the characteristic seascape
18 must be low. Development activities may be seen, and may attract
19 minimal attention, but may not dominate the view of the casual
20 observer.

21
22 iii. Class III: The objective of this class is to partially retain the existing
23 character of the seascape. The level of change to the characteristic
24 seascape may be moderate. Development activities may be seen, and
25 may attract attention but may not dominate the view of the casual
26 observer.

27
28 iv. Class IV: The objective of this class is to provide for development
29 activities which require major modifications of the existing character of
30 the seascape. The level of change to the characteristic seascape can be
31 high. These development activities may dominate the view and be the
32 major focus of viewer attention. However, every attempt shall be made
33 to minimize the impact of these activities through careful location,
34 minimal disturbance, and repeating the basic elements.

35
36 **(b) Project Review Criteria**

37 In order to determine whether the proposed project meets the standards
38 defined for each Class of viewshed, regulating agencies will consider the
39 following contrast criteria for the visible portion of the proposed renewable
40 energy facility for which the applicant has produced visual simulations for
41 the affected viewsheds selected by the JART.

42
43 i. Distance from viewpoint. The contrast created by a project usually is
44 less as viewing distance increases.

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- ii. Angle of Observation. The apparent size of a project is directly related to the angle between the viewer’s line-of-sight and the slope upon which the project is to take place.
 - iii. Length of Time the Project Is In View. If the viewer has only a brief glimpse of the project, the contrast may not be of great concern. If, however, the project is subject to view for a long period, as from an overlook, the contrast may be very significant.
 - iv. Relative Size or Scale. Project contrast is directly related to project size and scale as compared to the surroundings in which it is located. This should include consideration of project size (e.g., number of devices) along with size of the individual devices and associated structures along with layout and spacing. For example, minimizing horizontal spread of the layout may reduce contrast.
 - v. Season of Use. Contrast ratings should consider the physical conditions that exist during the heaviest or most critical visitor use season.
 - vi. Light Conditions. Light conditions can substantially affect the amount of contrast. The direction and angle of lighting can affect color intensity, reflection, shadow, from, texture, and many other visual aspects of the seascape. Light conditions during heavy use periods must be a consideration in contrast ratings.
 - vii. Spatial Relationships. The spatial relationship within a seascape is a major factor in determining the degree of contrast. For example, projects in areas that are the “focus of key views” like a headland or large offshore rocks could have a higher contrast.
 - viii. Atmospheric Conditions. The visibility of projects due to atmospheric conditions such as fog or natural haze should be considered.
 - ix. Motion, lights and color. Movement and lighting draw attention to a project and vary depending on conditions and time of day and night. Surface treatment (e.g., color) may increase or decrease visibility.
 - x. Shore-based facilities. Associated shore-based facilities (e.g., buildings, cables etc.) should also be considered in the visual impact analysis.

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1 **6.) Proprietary Use and Management Area (PUMA) Standards**

2 **A PUMA is an area wherein there are one or more authorized uses or special**
3 **management designations, including but not limited to, ~~undersea fiber-optic or~~**
4 **scientific research cable corridors, navigation channel and pilotage safety**
5 **corridors, and state or federal habitat management areas. Regulating agencies**
6 **will not accept a renewable energy facility application in a PUMA unless the**
7 **use is legally permissible and complies with the authorized use of the area.**
8 **Applications for projects within a PUMA are subject to the resources and uses**
9 **review standards that apply to the type of resources or uses area the PUMA is**
10 **located in, as delineated by the Map Designations in Appendix B.**

11
12 **7.) Project Development Limitations and Constraints**

13 **The total amount of area within the territorial sea that is to be built or**
14 **committed for renewable energy facilities is limited both on a statewide and**
15 **regional basis.**

16
17 **(a) The total area that is built and committed to marine renewable energy**
18 **development, based on the area permitted and leased for that use, shall not**
19 **exceed a maximum of ~~three~~ two percent of the total area of the territorial**
20 **sea.**

21
22 **(b) The total area that is built and committed to marine renewable energy**
23 **development, based on the area permitted and leased for that use, shall not**
24 **exceed a maximum of one percent of the total area within a 60 nautical mile**
25 **arc as measured from the mouths of the Columbia River estuary, the**
26 **Newport estuary, and the Coos Bay estuary.**

27
28 **(c) The total area designated as REFSSA in the plan shall not exceed five**
29 **percent of the total area of the territorial sea.**

30
31 **C. Application Requirements**

32
33 **1. Pre-Application**

34 **The regulating agency shall require the applicant to participate in a pre-application**
35 **conference before an application is submitted.**

36
37 **2. Financial Capacity**

38 **The regulating agency shall assure that an applicant has the financial capacity to**
39 **complete the application process before resources are committed to review of the**
40 **application.**

41
42 **3. Application Fee**

43 **The application must include all information required by applicable rules of the**
44 **regulating agency, as well as any applicable fee for review of the application.**

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1
2 **D. Operation Plan Development**

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

11
12 **1. Phased Development Plan**

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

23
24 A facility that has been developed to the full extent of its design and operating capacity
25 may, during the lifetime of its authorization, require systematic improvements to the
26 technology, structures and operational procedures that were originally authorized. The
27 regulating agency ~~will~~ **shall** require a new facility development plan, as appropriate and
28 necessary, to provide the data and information for the redevelopment and operation of the
29 new facility components.

30
31 **2. Facility Development Plan**

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

- 35
36 **a.** Structural and project design, materials used, anchoring and installation information;
37 **b.** All cables and pipelines, including lines on project easements;
38 **c.** A description of the deployment activities;
39 **d.** A listing of chemical products used;
40 **e.** A description of vessels, vehicles, aircraft and the transit lanes that will be used;
41 **f.** A general description of the operating procedures and systems;
42 **g.** Construction schedule; and
43 **h.** Other information as required by the Department of State Lands.
44

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1 **3. Project Operation Plan**

2 An operation plan is required that describes, at a minimum, information regarding the
3 routine environmental monitoring, safety management and emergency response procedures,
4 facility inspections, and the decommissioning of the project. The operation plan
5 ~~should~~**shall** explain the procedures and mechanisms that will be employed so that the
6 facility will comply with regulatory standards and other conditions of permit or license
7 approval related to water and air quality, environmental protection and mitigation, facility
8 maintenance and safety, operational failure and incident reporting. An operation plan
9 ~~will~~**shall** include the following information:

10
11 **a. Contingency Plan:**

12 A plan to describe how the facility operator will respond to emergencies caused by a
13 structural or equipment failure due to human error, weather, geologic or other natural
14 event. The plan ~~should~~**shall** include a description of the types of equipment, vessels
15 and personnel that would be deployed, the chain of command or management structure
16 for managing the facility repairs, recovery or other forms of remedial action, and the
17 process and timeline for notification of state and federal authorities.

18
19 **b. Inspection Plan:**

20 A plan to provide for the implementation of a routine inspection program to ensure the
21 mechanical, structural and operational integrity of renewable energy ~~project~~ facilities
22 and other related structures, equipment or facilities. In addition, unscheduled
23 inspections ~~are to~~**shall** be required after any major geologic or meteorologic event to
24 ensure continued operational safety and environmental protection.

25
26 **c. Monitoring Plan:**

27 A plan to provide for the implementation of a routine standardized monitoring program
28 for potential impacts on specific resources as specified by the resource inventory and
29 effects evaluation. The operator shall monitor activities related to the operation of the
30 facility and demonstrate that its performance satisfies specified standards in its
31 approved plans. Monitoring shall be sufficient to accurately document and quantify the
32 short-term and long-term effects of the actions on the affected resources and uses.
33 Plans for monitoring ~~must~~**shall** include, at a minimum:

- 34
- 35 1) A list of the information needed to satisfy an effects evaluation.
 - 36
 - 37 2) Specific study objectives to obtain the needed information and explanation of
38 how the study design will meet the objectives.
 - 39
 - 40 3) Description of study methods to meet the objectives, such as:
41
42 ~~A~~(a) Literature review;
43 ~~B~~(b) Collection of needed baseline data;
44 ~~C~~(c) Hypotheses to address the study objectives;

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1 ~~D~~(d) Descriptions of field sampling and data-analyses methods to be used; and
2 ~~E~~(e) Use of adequate controls, such as control sites, to allow the effects of the
3 proposed action to be separated from natural fluctuations in resources and
4 habitats.

5
6 4.) The monitoring plan ~~will~~**shall** include supporting documentation demonstrating
7 that the study design is scientifically appropriate and statistically adequate to
8 address the research objectives.~~28~~²⁹

9
10 4) ~~5.)~~ The monitoring plan ~~will~~**shall** include a description of the method that
11 will be used to report and deliver data and analyses information to the
12 authorizing state agency for review in a timely and efficient manner.³⁰

13
14 **6.) The monitoring plan will include a description of the process for periodic**
15 **and ongoing public involvement and review of the monitoring work.**

16
17 **d. Adaptive Management Plan**

18 An adaptive management plan to provide a mechanism for incorporating new findings
19 and new technologies into the operation and management of the project. The adaptive
20 management plan shall include performance standards that are based on results of the
21 resource inventory and effects evaluation and incorporated in the study design of the
22 monitoring plan as described in paragraph C.3.c (Monitoring Plan), ~~above~~. The plan
23 ~~will~~**shall** explain the processes for how adaptation measures are applied to the operation
24 of the project. When the monitoring results show that the performance standards are
25 not being met due to the operation of the facility, adaptation measures designed to bring
26 the operation into compliance with the performance standard will be applied to the
27 operation of the project. The adaptive management plan will explain processes for how
28 adaptation measures will be applied to the operation and management of the project.
29 ~~The adaptive management plan should account for:~~

- 30
31 1) ~~1.)~~ Variable conditions in the marine environment;
32 2) ~~2.)~~ Change in the status of resources;
33 3) ~~3.)~~ New information provided by monitoring of the project;
34 4) ~~4.)~~ Data and information provided by research and from other sources;

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

²⁹ 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.

³⁰ 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."

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- 5) New technologies that would provide for greater protection of ocean resources;
- 6) Ocean fisheries, or other ocean uses to be protected from adverse effects and operational conflicts; and
- 7) Unanticipated cumulative effects.

4. **Decommissioning Plan:**

An applicant ~~is required to~~ **shall** provide a plan to restore the natural characteristics of the site to the extent practicable by describing the facilities to be removed.²³¹ The plan should include; a proposed decommissioning schedule; a description of removal and containment methods; description of site clearance activities; plans for transporting and recycling, reusing, or disposing of the removed facilities; a description of those resources, conditions, and activities that could be affected by or could affect the proposed decommissioning activities; results of any recent biological surveys conducted in the vicinity of the structure and recent observations of marine mammals at the structure site; mitigation measures to protect archaeological and sensitive biological features during removal activities; and a statement as to the methods that will be used to survey the area after removal to determine any effects on marine life. A decommissioning plan should identify how the project owner will restore the site to the natural condition that existed prior to the development of the site, to the extent practicable.

5. **Financial Assurance Plan:**

The applicant ~~must~~ **shall** provide a financial assurance compliance plan that describes ~~their ability to~~ **how the holder will** comply with the state ~~regulating agency~~ requirements for 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 will be applied. Waves sufficient to cover the estimated costs of: (1) removal and recovery of the facility or portions of the facility lost or damaged through an accident;**

³¹ 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:

“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.”

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.”

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1 **(2) damages to vessels and equipment owned by third parties through an accident;**
2 **and (3) decommissioning and removal of the facility upon the termination of its**
3 **authorization(s). Holders of authorizations for renewable** energy facilities or devices
4 shall comply with ~~the~~**applicable state financial assurance** requirements ~~of,~~ **including but**
5 **not limited to:** ORS 274.867,~~3~~ and ~~the~~ implementing administrative rules of the
6 Department of State Lands, OAR **chapter 141, division 140-0080 and OAR 141-140-0090.**
7 **In addition, the regulating agency shall determine whether the holder will have the**
8 **technical, organizational and financial capacity to construct, operate and**
9 **decommission and remove the proposed facility.**

10
11 **6. Agreements:**

12 Applicants ~~are required to~~**shall** communicate with traditional ocean users and stakeholders
13 with an interest in the area of the proposed project to address issues of concern.⁴³²
14 Applicants are encouraged to memorialize agreements with those ocean users and
15 stakeholders on ~~the~~ specific actions, **including conducting the adaptive management and**
16 **monitoring plan,** that the applicant ~~will take~~**is required** to address their issues of concern.
17 **perform.**

18
19 **D.E. Northwest National Pacific Marine Renewable Energy Center Mobile-**
20 **Test Berth Site**

21
22 **1. Test Berth Site Plan**

23 The ~~purpose of the Northwest National Marine Renewable Pacific Marine~~ Energy Center
24 mobile test berth site (PMEC) **Ocean North Energy Test Site** is established ~~to conduct~~
25 **experimental marine renewable energy device testing. A primary function of the**
26 **PMEC Ocean North Energy Test Site is to understand the environmental effects of**
27 **various marine renewable energy devices, in addition to the amount of energy**
28 **produced by the various technologies.**

29
30 **1. The Mobile Ocean Test Berth Site**

31 **The purpose of the NNMREC Mobile Ocean Test Berth (MOTB) site at Newport is to**
32 **conduct short-term experimental testing of marine renewable energy technologies at**
33 **the devices. This site will be used for short-term deployments of individual wave**

³² The Department of State Lands rule on Pre-Application Requirements, OAR 141-140-0040, provides:

“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
“(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.”

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1 energy devices in conjunction with or independently of The Ocean Sentinel, a mobile
2 ocean test berth facility. This site is not grid-connected.
3

4 **2. Test Berth Regulating Agency Authorizations for MOTB Site Use**

5 An application for a permit, license, or other authorization for the installation and use of the
6 Northwest National Marine Renewable Energy Center mobile test berth site, operation at
7 the NNMREC PMEC MOTB site is not subject to the requirements of sections B or C,
8 above.
9

10 ~~An experimental or test device or other structure for use at the Northwest National Marine~~
11 ~~Renewable Energy Center mobile test berth site is required to~~ that seeks permission to use
12 the NNMREC PMEC MOTB site, shall obtain any applicable license, permit or
13 authorization. licenses, permits or Department of State Lands authorizations.
14

15 **F. Plan Review**

16 Territorial Sea Plan Part Five shall be subject to review by the Ocean Policy Advisory
17 Council (OPAC) no longer than seven years after it has been adopted or when one
18 percent of the Territorial Sea has been permitted and the facilities developed for
19 renewable energy facilities, whichever occurs first. OPAC may, at any time, choose to
20 initiate an amendment of the plan through the process described under Part One,
21 section F.2, Changing the Plan and ORS 196.443(1)(a).
22

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, the following definitions shall apply:~~

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
13 **Adverse Effect for Fisheries Use Protection Standards: a significant reduction in the**
14 **access of commercial and recreational fishers to an area spatially delineated as an area**
15 **important to a single fishing sector, multiple combined sectors, or to the fishing**
16 **community of a particular port.**

17
18 **Applicant:** 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 (e.g., 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; ~~or~~
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 Resources Management Plan, the act of conservation means “that the integrity, diversity,
35 stability, complexity, and the productivity of marine biological communities and their habitats
36 are maintained or, where necessary, ~~restored~~ **restored**” and
37 ~~“...accommodat~~ **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
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1 b.) areas designated in the Territorial Sea Plan as either:

- 2 1.) as needed for the survival of animal or plant species listed by state or federal laws as
3 "“threatened”, “”, “endangered”, or “sensitive””. Such areas might include special areas
4 used for feeding, mating, breeding/spawning, nurseries, parental foraging, overwintering,
5 or haul out or resting. This ~~is~~ **designation does not intended to** limit the application of
6 federal law regarding threatened and endangered species; or
7 2.) “unique” (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

15 **Habitat:** the environment in which an organism, species, or community lives. Just as humans
16 live in houses, within neighborhoods, within a town or geographic area, within a certain region,
17 and so on, marine organisms live in habitats which may be referred to at different scales. (see
18 also “critical marine habitat”, “important marine habitat”) (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; ~~or~~
24 b.) needed to assure the survival of threatened or endangered species; ~~or~~
25 c.) ecologically significant to maintaining ecosystem structure, biological productivity, and
26 biological diversity; ~~or~~
27 d.) essential to the life-history or behaviors of marine organisms; ~~or~~
28 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
33 ~~effects~~ **evaluation/assessment** is conducted pursuant to Goal 19: including but not limited to:
34 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 **Impact: is the severity, intensity, or duration of the effect, and can be either or both**
40 **positive or negative outcomes.**
41

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

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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., paving or compensating for environmental damage).**
6

7 **Phased development projects:** Renewable energy facility developments which are limited in
8 scale and area, but are designed to produce energy for commercial use.
9

10 **Precautionary Approach: the application of a planning and regulatory decision making**
11 **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

21 **Presumptive Exclusion for Fisheries Use Protection Standards: the assumption that the**
22 **distribution and importance of fisheries use within an area would preclude the siting a**
23 **renewable marine energy facility based on the potential adverse effects of that**
24 **development on those identified resources and uses.**
25

26 **Project: see “renewable energy facility or facilities” below.**
27

28 **Project Developer: see “applicant” above.**
29

30 **Regulating agency or regulating agencies:** State and federal agencies making decisions to
31 authorize the siting, development and operation of renewable energy facilities development or
32 other related structures, equipment or facilities within the Oregon Territorial Sea.
33

34 **Renewable Energy Facility or Facilities:** 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
40 terms “renewable energy facility” or “renewable energy facilities” are used to describe any and
41 all components of these developments.

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- 1 **Seascape: the coastal landscape and adjoining areas of open water, including views from**
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 **viewpoints on shore.**

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1 Part Five Appendix B: ~~Endnotes~~Map Designations

2
3 The map 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
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 REFSSA must comply with Part Five, paragraphs B.4.a through f., and section C, and
28 the applicable regulatory and proprietary requirements of state and federal agencies.
29 The total area for REFSSA may not exceed five percent of the territorial sea (63 sq.
30 miles or 47.5 sq. nautical miles).

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
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1 Resources and Uses Conservation Area (RUCA): an areas wherein there are
2 important, significant, or unique (ISU) ecological resources, or an area that is of
3 significant economic importance to commercial fishing sectors, recreational fishing, or
4 individual ports. MRE developmentA renewable energy facility could be sited within
5 a RUCA, though there is a high potential that most types of MRE
6 developmentprojects would have significant adverse effects on inventoried marine
7 resources and uses within the area. A project proposal for MRE development in a
8 RUCA must demonstrate that the iproject will have no reasonably foreseeable adverse
9 effects on inventoried marine resources and uses as determined by the standards for
10 protecting those resources and uses in that area. Based on the map designations in
11 Appendix C, the RUCA are X square miles (X sq. nautical miles) covering X% of the
12 territorial sea.

Commented [LA2]: To be calculated once the LCDC decides on an alternative for moving forward.

13
14
15 Renewable Energy Exclusion Area (REEA): special management areas. These areas
16 contain permitted or managed uses that have some form of exclusive right or
17 authority to exclude, restrict or control other uses in that area. Examples of these
18 types of authorizations including: **undersea fiber optic or scientific instrumentation;**
19 **cable corridors;** dredge material disposal sites.; and marine reserves and marine
20 protected areas. Regulating agencies will not accept renewable energy facility
21 Applications for MRE development will not be accepted within a REEA. Based on the
22 map designations in Appendix C, the REEA are X square miles (X sq. nautical miles)
23 covering X% of the territorial sea.

24
25 Proprietary Use and Management Area (PUMA): areas wherein there are authorized
26 uses and special management designations. These areas are subject to some form of
27 authority to restrict or control other uses. Examples of these types of authorizations
28 include **undersea fiber optic or scientific instrumentation, cable corridors, and**
29 **navigation channels and pilotage safety corridors. Regulating agencies will not accept**
30 **renewable energy facility MRE applications in these areas unless the use is legally**
31 **permissible and, complies with the authorized use of the area. Based on the map**
32 **designations in Appendix C, the PUMA are X square miles (X sq. nautical miles)**
33 **covering X% of the territorial sea.**
34

1 **Part Five Appendix CD: Enforceable Policies Subject to Federal Consistency**

2
3 **This Appendix lists the provisions of Part 5 that constitute the “enforceable policies” for**
4 **Federal Consistency purposes, under the CZMA and pursuant to the Federal Consistency**
5 **Regulations at 15 CFR Part 930. The federal Coastal Zone Management Act requires**
6 **that certain federally permitted or licensed activities that affect coastal uses or resources**
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**
10 **Department of Land Conservation and Development will apply the following sections of**
11 **TSP Part 5 as enforceable policies:**

12
13 **Note: The exact text for each of the section below will be included here once the text is**
14 **finalized and approved.**

15
16 **Section B.4. Resource and Use Inventory and Effects Evaluation and Special Resource**
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. Pilot and Phased Development**

22 **B.4.f.2) Pilot Project**

23 **B.4.f.3) Phased Development**

24 **B.4.g. Special Resources and Use Review Standards**

25 **B.4.g.1) General siting and development requirements**

26 **B.4.g.2) Fisheries Use Protection Standards**

27 **B.4.g.3) Ecological Resource Protection Standards**

28 **B.4.g.4) Recreational Resource Standards**

29 **B.4.g.5)A) Visual Resource Protection Standards – Classification of**
30 **Viewsheds**

31
32 **Section C.**

33 **C.1. Phased Development Plan**

34 **C.2. Facility Development Plan**

35 **C.3. Project Operation Plan**

36 **C.4. Decommissioning Plan**

37 **C.5. Financial Assurance Plan**

38 **C.6. Agreements**

39
40 **Appendix A. Definitions**

41 **All**

42
43 **Appendix BC. Map Designations**

44 **All**

45
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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

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