

## **AMENDING THE REGULATORY REGIME FOR OCEAN ENERGY DEVELOPMENT IN OREGON**

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Oregon's regulatory framework did not efficiently designate areas for siting ocean wave energy facilities when developers began applying for permits from Federal Energy Regulatory Commission in 2006. Although some existing regulations were designed to assess ocean uses such as wave energy, most applicable statutory authorities and regulations did not clearly address the unique issues related to ocean wave energy projects. The state's Territorial Sea Plan did not directly address wave energy development in a manner that clearly addressed the requirements of Statewide Planning Goal 19 Ocean Resources, with respect to the potential effects on the marine environment and other ocean users.

The state regulatory regime is currently characterized by multiple regulatory processes, with unique timelines, standards, and opportunities for appeal. State agencies lack adequate staff capacity to provide the necessary level of service and community outreach to address the complex issues related to the introduction of a new energy generation industry in a marine environment. Limited site specific information exists about potential impacts and other ocean users have substantial concerns over effects on their economic well-being. Furthermore, developing an integrated regulatory process is a time and staff intensive effort that will require leadership and the focused participation and cooperation of multiple state agencies to succeed.

Almost immediately, commercial and recreational fishing interests and environmental organizations began to express concerns about the impacts from wave energy development. Wave industry representatives, local governments, ports, and fishing interests and other conservation groups advocated for changes to the state's management structure to ameliorate potential conflicts between the new and traditional users through some form of ocean zoning. In March of 2007, Oregon's Governor, in response to those concerns, issued an executive order that directed the Oregon Department of Land Conservation and Development to seek recommendations from the Ocean Policy Advisory Council for amending the Territorial Sea Plan to site wave energy projects. Simultaneously, the state signed a Memorandum of Understanding with FERC to coordinate the process and procedures for review of wave energy project applications. That agreement stipulated that Oregon would prepare a comprehensive plan for siting wave energy development and that FERC would consider it when issuing permits or licenses.

The state is now engaged in that process to amend the Territorial Sea Plan by adding a new chapter for ocean energy conversion. It involves a multi-track initiative to bring the stakeholders together in the collaborative process to amend the plan, and to establish

policies, standards, and coordination requirements as well as the spatial analysis for designating specific areas for energy conversion development within the state territorial sea. This paper describes that process and anticipates what the new chapter will contain.

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