

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Land Conservation and Development
Agency and Division

660
Administrative Rules Chapter Number

Designate areas and establish regulatory standards for siting marine renewable energy development within the state territorial sea
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: OAR Chapter 660, division 36, Oregon Territorial Sea Plan

Statutory Authority: ORS 197.040

Other Authority:

Stats. Implemented: ORS ORS 196.417

Need for the Rule(s):

To designate areas and establish standards for siting marine renewable energy development within the Oregon Territorial Sea

Documents Relied Upon, and where they are available:

Statewide Planning Goal 19 Ocean Resources (<http://www.oregon.gov/LCD/docs/goals/goal19.pdf>) and the Oregon Territorial Sea Plan (http://www.oregon.gov/LCD/OCMP/Pages/Ocean_TSP.aspx).

Fiscal and Economic Impact:

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

State agencies will be required to review and authorize the siting and operation of marine renewable energy facilities, which will incur the use of staff resources and personnel. Local government will have participate in the state's review process which will also incur the use of city or county staff. The developer will need to comply with the regulatory requirements by providing specific resource inventory and affects evaluations details the potential impacts the proposed development may have on existing resources and uses, and operational plan information that details the type of facility that is proposed on how it will be managed and maintained, and developers ability to comply with fiscal and emergency compliance standards. There are no current estimates or projections for the number, size or type of developments to which the rule may eventually apply. The cost of providing the inventory and effects evaluations, conducting monitoring, and providing financial assurances, contingency plans and emergency response resources will be determined by the scope, scale and type of technology being deployed. Commercial scale marine renewable energy development may not occur for another 10 to 15 years according to the Oregon Wave Energy Trust. It is more likely that the there will be small scale pilot projects and early phase development in the near term period over the next 5 to 10 years. Further, the review standards and regulatory requirements being established by the state are not different from those that will otherwise be required by the federal government as part of their independent regulatory process.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

There is no method to accurately estimate the number of businesses or industries that may be subject to this rule, as the industry itself is in its formative stages and new companies are being formed and dissolved continuously. The U.S. Department of Energy maintains a data base (<http://www1.eere.energy.gov/water/hydrokinetic/default.aspx>) listing hundreds of companies that are currently developing some form of marine hydrokinetic technology that may be used to harness electrical energy from wave or tidal forces, both domestic and foreign. To date, many of the companies that have expressed interest or have been active or enquired about the possibility of some form of development or testing in Oregon are not based in the state, and several are foreign.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

Complying with the state's regulatory requirements pursuant to this rule change would be insignificant, in that the same information would already be required to comply with the existing federal and state regulations. The administrative cost for complying with any of the state and federal regulatory programs will generally be dependent on the scope and type of proposed activity, which could range from a small scale temporary device testing project to a commercial scale energy production facility.

c. Equipment, supplies, labor and increased administration required for compliance:

A developer seeking permits and a lease from the state for a marine renewable energy development project would be required to provide the state agencies with information and data sufficient for the state to determine the potential impacts of that development on marine resources and uses, the economic impacts on affected communities, and the operation and management of the facility. This information may be obtained through the contacting of professional consulting services or through the use of the companies own technical expertise and resources. The rule will require the developer to post a bond or other form of financial assurance with the state, the form of which will be dependent on the size and scope of the project. The state already has statute and rules requirements for obtaining a bond for these types of projects.

How were small businesses involved in the development of this rule?

Commercial, charter and recreation fishing industry, marine recreational user community, cable operators, and marine renewable energy development companies were members of the LCDC Territorial Sea Plan Advisory Committee. The recreation, real estate and tourism hospitality industries were interested in the possible affect that development may have on their interests, and were heard from during the public workshops conducted by the Ocean Policy Advisory Council and TSPAC. Local government representatives on both those bodies represented those concerns on both OPAC and TSPAC.

Administrative Rule Advisory Committee consulted?:

If not, why?: Yes, LCDC established and consulted with the Territorial Sea Plan Advisory Committee (TSPAC)

Casaria Tuttle

Signature

Printed name

Date

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