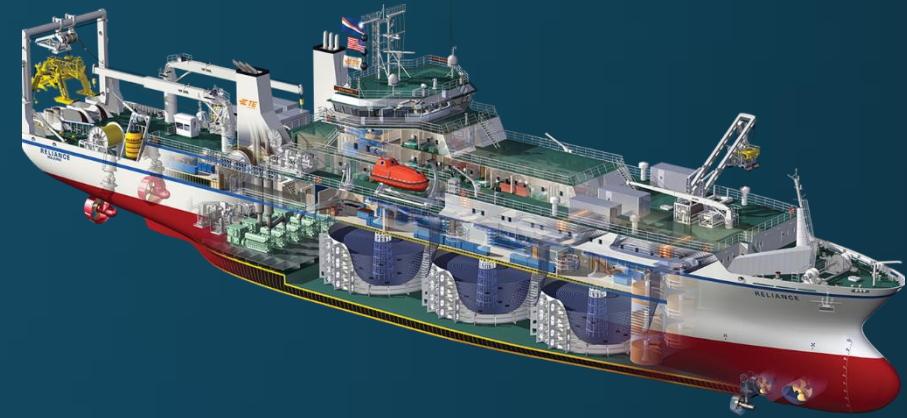


HB 2603 - TSP Part Four

OPAC Working Group Meeting



03.15.2023

Marcus Chatfield

Undersea Cable Coordinator

Oregon Coastal Management Program

TSP Part Four OPAC Working Group Meeting

Welcome!

Introductions:



Marcus Chatfield, Undersea Cable Coordinator
Oregon Coastal Management Program

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Direct: (971) 718-4202

SUMMARY

This meeting was led by Marcus Chatfield, Undersea Cable Coordinator (DLCD). The goal of this meeting was to discuss updates from the Landing Site Criteria Subcommittee, hear a presentation by Scott McMullen on the role of the Oregon Fishermen's Cable Committee (OFCC) on the cable permitting process, and review and discuss draft amendments to the TSP Part Four: Uses of the Sea Floor. Meetings of the Working Group will provide guidance and recommendations to be used by DLCD staff to generate language amendments for the TSP Part Four. Final recommendations will be presented to the Ocean Policy Advisory Council (OPAC) for their consideration after the Working Group concludes their meetings later in the Spring, thereby meeting the timeline established in HB 2603.

The meeting opened at 9:00AM with introductions of meeting participants, the meeting schedule was discussed. The landing site tour was discussed. A doodle poll and survey were distributed to meeting participants to help schedule the next meetings and site tour.

An update on the work done by the cable landing site criteria committee was discussed.

Scott McMullen presented on the role of the OFCC on cable route selection.

DSL led the discussion on their proposed changes to the structure of the TSP Part Four. During the discussion of the structure of the TSP Part Four, a new table of contents and structure were adopted by the group. This structure was an adaptation of the proposed DSL structure.

It was decided there needs to be a glossary of definitions in the TSP Part Four.

The possibility of writing a memo to OPAC for future changes to the TSP Part Four which cannot be covered during this amendment process was discussed.

Meeting broke for Lunch at 11:30 AM.

Public Comment period opened at 12:30 PM. Stan Dynak commented about the concerns of the industry about the potential increased burden the Resource and Use Inventory and Effects Evaluation contents could cause an applicant.

The importance of definitions was discussed, and the Working Group decided on the need for a glossary of terms.

Changes to the text in the draft amendments were discussed.

- Review of [TSP 4 Fourth Working Group Meeting Summary](#)
- Any Revisions?

AGENDA

All times are general estimates and subject to change based on meeting progress and discussion.

9:00 am	Welcome, Introductions, and Agenda Overview
9:15 am	Review of meeting schedule, discuss site tour.
9:30 am	Presentation on progress made to the Cable Landing Siting Report by Reed Burgette
10:30 am	Break
10:45 am	Discuss draft amendments: Structure and Background, Glossary of terms
11:30 pm	Lunch
12:30 pm	Public Comment
1:00 pm	Discuss draft amendments: Policies
1:45 pm	Break
2:00 pm	Discuss draft amendments: Implementation Requirements
2:45 pm	Break
3:00 pm	Discuss draft amendments: Implementation Requirements
3:45 pm	Plan for Next Meeting
4:00 pm	Adjourn

Dates for upcoming meetings, materials, & Review Timelines

April 2023


Su	Mo	Tu	We	Th	Fr	Sa
26	27	28	29	30	31	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	1	2	3	4	5	6

May 2023

Su	Mo	Tu	We	Th	Fr	Sa
30	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31	1	2	3

 = Working Group Meeting

 = Materials provided to WG

 = Last date of written feedback on draft language

DOGAMI Presentation

Break

Lunch

We will Resume at 12:30 pm with Public Comment

Public Comment

Draft Amendments: Structure, Background, and Glossary

Territorial Sea Plan Part IV

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- A. Telecommunications Cables, Pipelines and Other Utilities
 - 1. Background
 - 2. Policies
 - 3. Implementation Requirements
 - a. Burial
 - b. Communication and Coordination
 - c. Controlling the Location of Utilities
 - d. Single Point-of-Contact

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2.1 International Law and Treaties Obligations
2.2 Undersea Cable Systems Development
2.3 Stakeholders Involvement
3. Policies, Jurisdictions, and Resource Inventory
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3.2 State
3.3 Local
4. Implementation Requirements
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4.2 State Agency Review Process	
4.3 Joint Agency Pre-Application Meeting
4.4 Resource Inventory and Effects Evaluation
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4.4.3 Use	
4.4.4 Inventory Content	
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4.5 Routing and Landing
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4.5.1 Undersea cables	
4.5.2 Pipeline, utilities	
4.5.3 Seafloor fixtures	
4.8 Decommission and Recycle
5. Customs Duties and Fees
6. Communication and Cooperative Mechanisms
7. Territorial Sea Plan Revision
Appendix A: Glossary	
Appendixes B, C, D...: Maps and Charts	

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Appendix A: Glossary	
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Discussion points

- Move explanation of extant Federal, State, Local policies to the background section.
- Have a stand alone policies section to lay out policies which are specific to the TSP Part 4.
- Remove Resource inventory from this section as it is described in the implementation section.
- Remove Customs Duties and Fees as they are beyond the jurisdiction of the TSP
- Jurisdiction of TSP

Draft Amendments: Structure, Background, and Glossary

1 UNDERSEA CABLES, PIPELINES, AND OTHER UTILITIES OR FIXTURES

1.1 The State Perspective

1.1 Purpose

Part Four of the Oregon Territorial Sea Plan provides a strategic framework for the decision-making process, partnerships, and collaborative relationships in undersea utility infrastructure development in the state territorial sea.

1.2 Goal

This strategic framework aims to maintain the long-term protection of marine ecosystems, preservation of their ecological functions, economic and social services, and, at the same time, protection of undersea utility infrastructure from potential natural and anthropogenic threats in order to preserve reliable and secure communication and digital data transmission services for Oregonians.

Draft Amendments: Structure, Background, and Glossary

1.3 Objectives

This strategic framework identifies the following objectives to be achieved:

- a. Maintain and protect marine ecosystems, biological resources, including migratory species, and areas that are of economic (e.g., fisheries, navigation), aesthetic, recreational, social, or historical importance to the people of Oregon, and could be impacted by projects related to cables, pipelines, or utilities.
- b. Implement policies and recommendations for undersea utilities routing and landing, installation, maintenance, decommission, and recycling.
- c. Engage communities, ocean users, industries, research institutes, and technical experts in decision-making.
- d. Establish a process of joint interagency pre-application meetings.
- e. Coordinate permitting processes between appropriate state and federal agencies, local and tribal governments for the placement of undersea utilities.
- f. Facilitate coordination and cooperation among federal, state, local agencies, and tribal governments, to ensure that mitigation and accident response plans are developed and updated.
- g. Promote undersea utility infrastructure resilience to climate change, natural disasters, extreme weather events, and human-made activities.
- h. Coordinate undersea utility infrastructure development projects with the growing development of renewable energy facilities in the Pacific Northwest (e.g., offshore wind farms, wave, solar, and hydrogen technologies).



CHATFIELD Marcus * DLCD

Can be merged into a single objective

CHATFIELD Marcus * DLCD

Deleted: <#>Evaluate fee structures and financing associated with administrative costs and the protection and management of the territorial sea and ocean shore.¶

Draft Amendments: Structure, Background, and Glossary

2. Background

Oregon's coast is a prime landing zone for fiber-optic telecommunication cables that cross the ocean floor from sites around the Pacific Rim. Other types of utilities such as ocean outfall pipes are also affixed to the seafloor. In the future, utilities such as natural gas and hydrogen pipelines and power transmission cables from offshore wind farms, may eventually be routed across Oregon's Territorial Sea bed. Proper placement of utility easements and installation of fixtures is required to avoid damage to or conflict with other ocean uses, such as commercial fishing, and to reduce or avoid adverse effects on marine habitats and coastal communities.

State agencies, such as the Department of State Lands, the Department of Environmental Quality, the Department of Fish and Wildlife, the Oregon Parks and Recreation Department, and the Department of Land Conservation and Development, need clear policies and standards for reviewing and approving the routing and installation of utilities and fixtures on the seafloor of the Oregon Territorial Sea. The policies, standards, data and information within the Territorial Sea Plan should also assist federal agencies in the siting and regulation of utilities and fixtures located in federal waters adjacent to the territorial sea.

ANTHONY Rebecca A * ODFW ...

Should broaden definition. Broadly encompass everything discussed in this document. Change to "effects on natural resources"

February 17, 2023, 1:44 PM



LANIER Andy * DLCD

Agreed... I think that would be an improvement.

Draft Amendments: Structure, Background, and Glossary

Applicant: An applicant for a state permit, license, lease or other authorization for the evaluation, siting, routing, placement, operation, or removal of a cable, pipeline, seafloor utility or fixture will be referred to as “the applicant”.

Cable(s) includes a cable used to conduct electricity or light that is placed on state-owned submerged or submersible lands within the territorial sea and any facilities associated with the cable.

Pipeline(s) includes any line of pipe, with or without equipped pumps, valves, and other control devices, used to move liquids, gasses, and/or slurries.

Utility/utilities includes any infrastructure affixed to the seafloor, not otherwise defined in this glossary, which provide the public with an essential good or service (heat, gas, electricity, water, sewage treatment, data, etc).

Fixture(s) includes any infrastructure affixed to the seafloor, not otherwise defined in this glossary, including but not limited to scientific and research devices, observation devices, (?)

Break

Draft Amendments: Policies

When proposing a project an applicant shall:

a. Maintain and protect renewable marine resources (i.e. living marine organisms), ecosystem integrity, marine habitat, and areas important to fisheries, navigation, recreation and aesthetic enjoyment from adverse effects that may be caused by projects related to cables, pipelines, or other fixtures by requiring that such actions:

1.) Avoid adverse effects to the integrity, diversity, stability and complexity of the marine ecosystem and coastal communities, and avoid conflicts between commercial or recreational fishing, or other ocean/coastal-use activities and utilities, and give first priority to the conservation and use of renewable marine resources;

2.) reduce any adverse effects when conflicts cannot be avoided;

3.) mitigate for adverse effects after first reducing them to the minimum practicable; and

4.) Restore the natural characteristics of a site to the extent practicable when the project is decommissioned and removed. (see also Statewide Planning Goal 19, Ocean Resources and the Oregon Territorial Sea Plan)

When making decisions to approve projects regulating state agencies shall:

1) Strongly encourage applicants to engage with local, state and federal agencies, community stakeholders, tribal governments and affected ocean users in a collaborative agreement-seeking process prior to formally requesting authorization to initiate a project.

2) Promote direct communication **and collaboration** between **the applicant and** affected ocean users **and coastal communities** to resolve or avoid conflicts and require written agreements among the parties when necessary to ensure communication and memorialize agreements.

Draft Amendments: Implementation Requirements

4. Implementation Requirements

Applicants shall adhere to the following implementation requirements (detailed below) when proposing a project related to cables, pipelines, or other fixtures within the Oregon Territorial Sea. This includes the utility cables that transmit the electrical energy from a renewable energy facility to the onshore substation, as prescribed in Part Five of the Territorial Sea Plan, Use of the Territorial Sea for the Development of Renewable Energy Facilities or Other Related Structures, Equipment or Facilities. The requirements in Part Two, Making Resource Use Decisions, sections A and B will not apply to projects related to cables, pipelines, or other fixtures within the Oregon Territorial Sea.

Draft Amendments: Implementation Requirements

- Should be re-numbered as 4.1, 4.1.1, etc

When approving projects state agencies shall avoid or reduce conflicts or adverse effects on natural resources or other ocean users through the following measures:

a. Cable Burial.

- 1.) In state waters: All undersea cables crossing or affixed to state lands of the territorial sea lying seaward of Extreme Low Water (which is the seaward boundary of the Ocean Shore Recreation Area) shall be buried so as to ensure continuous burial unless the approving state agencies make findings that burial cannot be practically achieved and all affected parties agree that adverse effects of not burying the cable have been reduced, avoided, or mitigated to the extent practicable.
- 2.) In federal waters: Decisions to permit burial of cables crossing or affixed to the seabed of the outer continental shelf (beneath federal waters) to a depth of 1500 meters, or to a latitude/longitude agreed to by affected stakeholders, off Oregon will be deemed consistent with this state policy. When a federal agency does not require burial in waters to this depth, the state may concur that the decision is consistent with state policy ~~only~~ if the federal agency makes findings that burial cannot be practically achieved ~~and~~ or all affected parties agree that adverse effects of not burying the cable, pipeline, or fixture, have been reduced, avoided, or mitigated to the maximum extent practicable.
- 3.) Burial shall be certified by the contractor to the easement-granting agency.

Draft Amendments: Implementation Requirements

- Should be re-numbered to 4.2

b. The easement-granting agency shall require that cables, pipelines, or other utility fixtures shall be inspected as part of installation or as otherwise required by a regulatory agency, and after any major geologic event, such as subduction- zone earthquake, to ensure continued burial and/or infrastructure integrity.

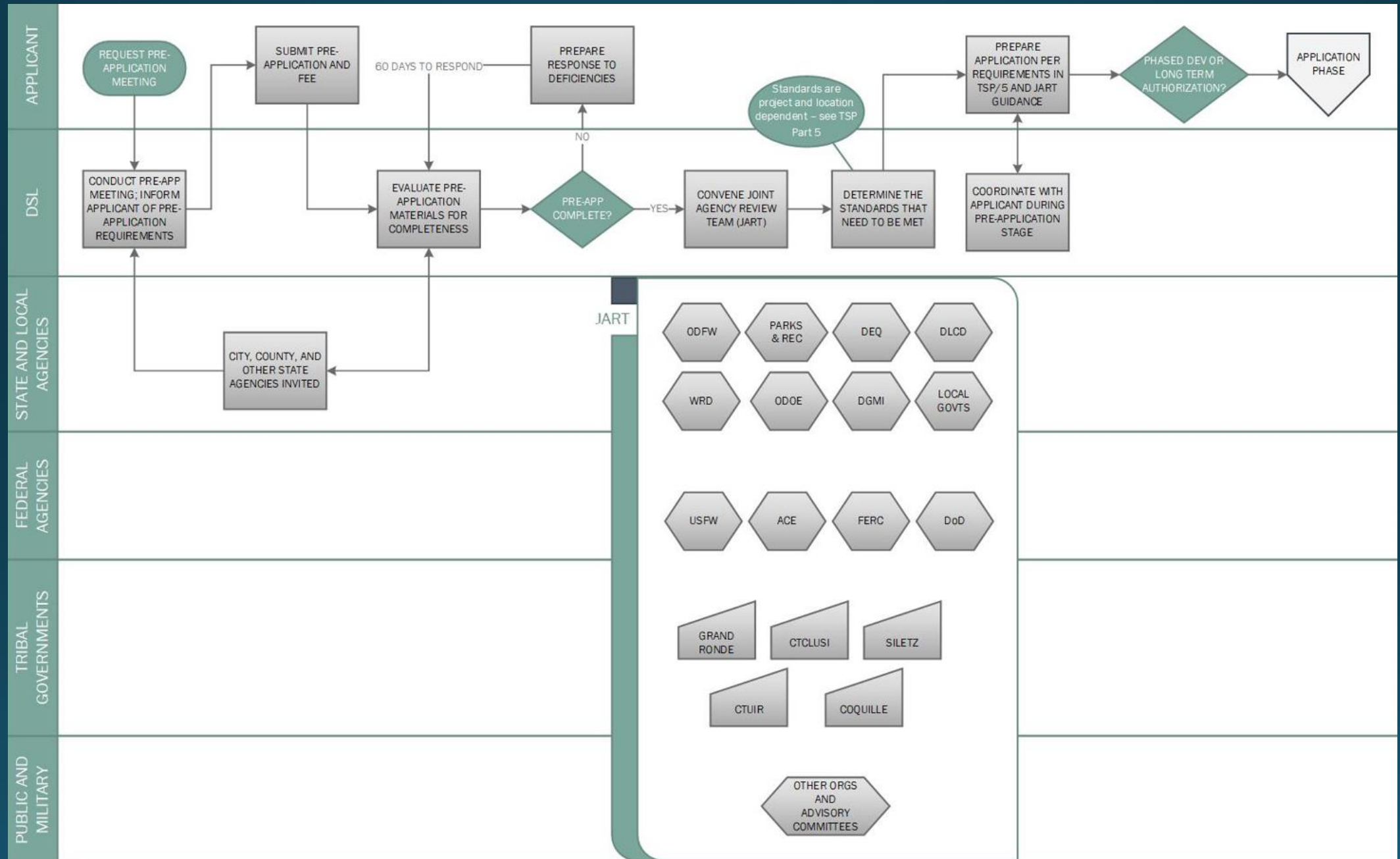
Draft Amendments: Implementation Requirements

- From here out, the numbering for implementation requirements should be fixed

4.2. Agency Communication, Coordination, and Review Process

State agencies shall apply the policies and provisions of the Oregon Ocean Resources Management Plan, Oregon Territorial Sea Plan, and Statewide Planning Goals as required to comply with State Agency Coordination Programs (OAR chapter 660, divisions 30 and 31). In accordance with the federal Coastal Zone Management Act, federal consistency regulations (15 CFR Part 930), and ORS 196.435, the Department of Land Conservation and Development will review the consistency certification together with required necessary data and information submitted by the applicant for federal authorization for projects related to cables, pipelines, or other utilities or fixtures within the Oregon Territorial Sea to ensure the project is consistent with enforceable policies of the Oregon Coastal Management Program, including the Territorial Sea Plan. The Department of State Lands (DSL) shall coordinate the review of applications for easements and permits in the Territorial Sea in consultation with the Joint Agency Review Team (JART) as described below.

Draft Amendments: Implementation Requirements



Draft Amendments: Implementation Requirements

4.3. Joint Agency Review Team

DSL shall convene the JART during the pre-application and application coordination meetings in order to facilitate the coordination of state and federal agencies, and local jurisdictions, as they apply their separate regulatory, proprietary, or other authorities to the review of a proposed project in the territorial sea and its associated landing sites.

4.3.1 DSL will invite representatives from the following agencies, jurisdictions and organizations to the coordination meetings:

JART Membership:

- 1) Departments of Fish and Wildlife, Parks and Recreation, Environmental Quality, Land Conservation and Development, Environmental Quality, and Geology and Mineral Industries, and other agencies with regulatory or planning authority, or advisory expertise, applicable to the proposed project and location as necessary;
- 2) Federal agencies, as invited, with regulatory or planning authority applicable to the proposed project and location;
- 3) Local jurisdictions including representatives from affected cities, counties, and their affected communities, and affected port districts;
- 4) Statewide and local organizations and advisory committees, as invited, to participate in the JART application of specific standards, including but not limited to those addressing areas important to fisheries, ecological resources, recreation and visual impacts; and,
- 5) Federally recognized Coastal Tribes in Oregon.

Draft Amendments: Implementation Requirements

4.3.2 JART Roles and Responsibilities

- 1) The JART will coordinate with DSL on the pre-application review process, and comment on the adequacy of the resource inventories and effects evaluations required under subsection 4.4 (Resource and Use Inventory and Effects Evaluation).
- 2) The JART will make recommendations to DSL on the approval of Territorial Sea easements and other authorizations, and to other applicable regulatory agencies on their decision to permit, license or authorize a proposed cable, pipeline or other utility in the territorial sea or associated landing sites.
- 3) The JART recommendations are advisory; regulating agencies who are members of the JART still operate in accordance with their own rules and statutory mandates.
- 4) DSL may acquire the services of technical experts at the expense of the applicant to assist the JART in analyzing specific subject information such as marine business economics and operations, as necessary to conduct the application review.

Break

Draft Amendments: Implementation Requirements

4.4. Resource and Use Inventory and Effects Evaluation

An applicant must provide the regulating agencies the data and information to complete the Resource and Use Inventory and Effects Evaluation, prior to the regulating agencies making any decision. An applicant may use relevant inventory information included in a project application to a federal agency to meet the requirements of this subsection.

4.4.1. Purpose of the Resource and Use Inventory and Effects Evaluation

The purpose of the Resource and Use Inventory and Effects Evaluation is to provide the regulating agencies the data and information necessary to make a decision based on the potential effects the project might incur. The Resource and Use Inventory and Effects Evaluation will help identify where the applicant needs to address deficiencies in the proposed project. The regulating agency will use the evaluation to develop specific measures for environmental protection and mitigation as well as measures to protect other ocean uses.

4.4.2. Sufficiency of Resource and Use Inventory and Effects Evaluation

An applicant must provide information and data to complete the Resource and Use Inventory and Effects Evaluation that is sufficient to identify and quantify the short-term and long-term effects of the proposed cable, pipeline or other utility or fixture in the territorial sea and associated landing sites on the affected marine resources and uses.

4.4.3. Use of Available Environmental Information

Regulating agencies may allow the applicant to use existing data and information from other authoritative sources, when complying with the requirements for the Resource and Use Inventory and Effects Evaluation.

Draft Amendments: Implementation Requirements

4.4.4. Inventory Content

To evaluate the magnitude of the proposed project, the likelihood of project effects, and the significance of the potential effects to resources and uses, regulating agencies shall require that the applicant include consideration of certain factors in the inventory. The Resource and Use Inventory and Effects Evaluation listed below apply to all proposed undersea cable projects in the territorial sea and associated landing sites for which an applicant pursues a DSL Territorial Sea easement, unless the requirements are waived by DSL or otherwise addressed in another part of the Territorial Sea Plan. Projects in the territorial sea related to pipelines or other utilities or fixtures have additional data Inventory contents specifically mentioned.

Draft Amendments: Implementation Requirements

4.4.4.1. Information to be provided by applicants about the proposed project | within the Oregon Territorial Sea:

- (a) Location (using maps, charts, descriptions, etc.);
- (b) Numbers and sizes of equipment, structures;
- (c) Methods, techniques, activities to be used;
- (d) Transportation and transmission systems needed for service and support;
- (e) Materials to be disposed of and method of disposal;
- (f) Physical and chemical properties of hazardous materials, if any, to be used or produced (e.g. chemicals used in Horizontal Directional Drilling, materials which may be transported by a pipeline, etc.); and
- (g) Proposed time schedule.

4.4.4.2. Location and description of all affected areas, including, but not limited to:

- (a) Proposed route of the cable, pipeline, or other utility;
- (b) Adjacent areas that may be affected by physical changes in currents and waves caused by the project;
- (c) Onshore facilities.

4.4.4.3. Physical and chemical conditions including, but not limited to:

- (a) Bathymetry (bottom topography) and Shoreline Topography, including profile of water depth along the route;

Additionally for pipelines or other utilities or fixtures:

- (b) wave regime;
- (c) typical and maximum current velocities;
- (d) dispersal characteristics;
- (e) meteorological conditions; and
- (f) water quality.

Draft Amendments: Implementation Requirements

4.4.4.4. Geologic structure, including, but not limited to:

- (a) Geologic hazards, such as faults or landslides of both marine and shoreline facility areas;
- (b) Mineral deposits;
- (c) Seafloor substrate type; and
- (d) Hydrocarbon resources.

4.4.4.5. Biological and ecological features affected by the project, including, but not limited to:

- (a) All habitats along the proposed route, specifically including critical marine habitats (see Part Four, Appendix A)
- (c) Recreationally or commercially important finfish or shellfish species;
- (e) Benthic flora and fauna;
- (f) Other ecosystem elements; and
- (g) Community composition of resident and migratory species.

4.4.4.6. Cultural, economic, and social uses affected by the project, including, but not limited to:

- (a) Commercial and sport fishing;
- (b) State or federally protected areas;
- (c) Scientific research;
- (d) Ports, navigation, and dredge material disposal sites;
- (e) Recreation;
- (f) Coastal community economy;
- (g) Aquaculture;
- (h) Wastewater or other discharge;
- (i) Utility or pipeline corridors and transmission lines;
- (j) Military uses; and
- (k) Aesthetic resources.

4.4.4.7. Significant historical, cultural or archeological resources.

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

Draft Amendments: Implementation Requirements

4.4.5. Written Evaluation

Regulating agencies shall require the applicant to submit a written evaluation of all the reasonably foreseeable adverse effects associated with projects related to cables, pipelines, utilities or other fixtures within the Oregon Territorial Sea and associated onshore facilities. For purposes of the evaluation, the submittal shall base the determination of "reasonably foreseeable adverse effects" on scientific evidence. The evaluation shall describe the potential short-term and long-term effects of the proposed project to marine resources and uses of the Oregon territorial sea, continental shelf, onshore areas and coastal communities based on the inventory data listed above and the following considerations:

4.4.5.1. 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 need not discuss highly speculative consequences. However, the evaluation shall discuss possible outcomes that are likely to occur and catastrophic environmental effects of low probability. Factors to consider include, but are not limited to:

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

4.4.5.2. 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:

- (a) Local and regional economies;
- (b) Archeological and historical resources; and
- (c) Transportation safety and navigation.

Draft Amendments: Implementation Requirements

4.4.5.3. Natural and Other Hazards: Evaluate the potential risks to the project, in terms of its vulnerability to certain hazards and the probability that those hazards may cause loss, dislodging, or drifting of structures, buoys, or facilities. Consider both the severity of the hazard and the level of exposure it poses to the renewable marine resources and coastal communities. Hazards to be considered shall include slope failures and subsurface landslides, faulting, tsunamis, variable or irregular bottom topography, weather related, or due to human cause.

4.4.5.4. Cumulative Effects: Evaluate the cumulative effects of a project, including the onshore component, in conjunction with effects of any past projects, other current projects, and probable future projects. The evaluation shall analyze the biological, ecological, physical, and socioeconomic effects of the proposed project and other projects along the Oregon coast, while also taking into account the effects of existing and future human activities and the regional effects of global climate change.

(a) In conducting the cumulative effects analysis, the applicant shall focus on the specific resources and uses, as detailed under section 4.4.4 that may be affected by the incremental effects of the proposed project and other projects in the same geographic area. The evaluation shall include but not be limited to consideration of whether:

- i. the resource and uses are especially vulnerable to incremental effects;
- ii. the proposed project is one of several similar projects in the same geographic area;
- iii. other developments in the area have similar effects on the resources and uses;
- iv. these effects have been historically significant for the resource and uses; and
- v. other analyses in the area have identified a cumulative effects concern.

Draft Amendments: Implementation Requirements

4.5 Routing and Landing

Locations for new cables, pipelines, or other utilities shall conserve areas available to ocean fisheries, prevent or avoid conflicts with other uses, protect marine habitats, and minimize adverse effects on other natural resources of the seafloor or ocean shore. New rights of way may be required to be located as close to existing rights of way as possible or with sufficient capacity to enable future expansion within the approved right of way.

ANTHONY Rebecca A * ODFW

...

Should some of the best practices outlined in the report be identified here?

Reply

ANTHONY Rebecca A * ODFW

...

This should be more broad. Protect and minimize effects on natural resources

Plan for next meeting

Before the next meeting, an informational packet will be sent out:

- A meeting Summary of this Working Group Meeting.
- Proposed Amendments to the TSP Part 4 based on the discussions had during this meeting.
- Any updates received by DLCD on the DOGAMI Study.

Other Topics for next meeting?

Adjourn

Thank you all For your participation!