

March 2012

## **NOAA Office of Ocean and Coastal Resource Management (OCRM) Summary Guidance for Oregon's Territorial Sea Plan, Part Five, Spatial Planning Process**

*The following comments are meant to provide guidance on what NOAA/OCRM would and would not be able to approve as part of a final plan on siting and managing offshore renewable energy in Oregon's state waters. These comments are consistent with the guidance NOAA/OCRM has provided other state programs, and represent requirements NOAA/OCRM must adhere to under the Coastal Zone Management Act (CZMA) and Federal Consistency Regulations when reviewing plans and enforceable policies to be approved as part of a state's federally-approved coastal management program under the CZMA. In many cases, NOAA/OCRM will not be able to make a final determination until we can see specific maps, policies, standards, conditions, etc., but intend for this guidance to assist the state in its deliberations and efforts to develop its final plan for Part Five of the Territorial Sea Plan.*

- OCRM, generally, cannot approve exclusion areas that discriminate against a particular coastal use, user, or activity. Some areas may exclude certain uses, but only after the state demonstrates with substantial evidence and documentation an important environmental, economic or cultural reason, and that the activity excluded is allowed elsewhere.
- State policies should be based on effects to coastal uses or resources and not on a particular type of activity. This ensures that the policy is applicable to any type of activity that has coastal effects and will not discriminate against a particular user group, agency, or a particular type of activity. (OCRM Program Change Guidance, Section 2.D)
  - For example, a state was concerned with possible impacts from offshore oil and gas development on specific fishing areas and on discharges that might follow ocean currents and eddies into the state's estuarine areas. The state proposed oil and gas specific energy policies. OCRM did not approve the policies because they imposed requirements on one user group, when other types of activities might have the same coastal impacts. The state re-wrote the policies to be based on coastal impacts and information needs to assess such impacts. Now the policies are applicable to all OCS energy projects and other activities having similar effects.
- Since Oregon's current TSP Part Five work is specific to offshore renewable energy, if the state still wishes to define a geographically limited exclusion area, they must also:
  - Have a clear rationale, based on coastal effects; and
  - Clearly identify areas that can support offshore renewable energy development in state waters and where such development would be encouraged.
- Coastal effects can be defined and justified by existing protection areas (e.g. marine reserves), or areas where mapped data layers show multiple layers of spatially coinciding high importance.
- Since geographically-broad exclusion areas can be challenging to justify based on coastal effects, the state may also want to consider establishing specific conditions that need to be met in certain areas of state waters (e.g. high value fishing areas) or areas where spatial analysis has demonstrated a higher potential for use or resource conflicts. This would afford those areas additional consideration or protection.
- Enforceable Policies in both the Rhode Island Ocean SAMP and the Massachusetts Ocean Plan have been approved by OCRM and may serve as good references for ideas, structure, content.
- The state needs to work closely with OCRM in developing enforceable policies and any exclusion areas well before state adoption.