

Potential Changes: 1

Policy section:3

When making decisions to approve projects or development actions regulating state agencies shall:

- 4) Promote direct communication and collaboration between the applicant and interested and affected ocean users as identified by the JART under 4.2.2 to mitigate potential conflicts.
- 5) ~~Require written evidence of conflict avoidance, minimization, and mitigation among affected ocean users, when necessary, to ensure communication and memorialize agreements.~~

1.3 Objectives

This strategic framework identifies the following objectives to be achieved:

- a. Maintain and protect marine ecosystems, biological resources, 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 infrastructure on, affixed to, or buried under the seafloor in the state territorial sea.
- b. Implement policies and recommendations for routing and landing, installation, maintenance, decommission, and recycling of infrastructure on, affixed to, or buried under the seafloor in the state territorial sea.
- c. Engage communities, ocean users, industries, research institutes, and technical experts in decision-making.
- d. Facilitate coordination and cooperation among federal, state, and local agencies, and tribal governments in the permitting and planning process for infrastructure on, affixed to, or buried under the seafloor in the state territorial sea, and ensure that mitigation and accident response plans are developed and updated.
- e. Promote resilience of infrastructure on, affixed to, or buried under the seafloor in the state territorial sea to climate change, natural disasters, extreme weather events, and human-made activities.
- f. Coordinate the development and installation of infrastructure on, affixed to, or buried under the seafloor in the state territorial sea with the growing development of renewable energy facilities in the Pacific Northwest (e.g., offshore wind farms, hydrokinetic, solar, and hydrogen technologies).
- g. Continue current, and promote future, compatible use of the seafloor between various ocean users.
- h. Keep Oregon a viable place to land submarine telecommunications cables.

Potential Changes: 2

Potential Changes: 3

4.3. Resource and Use Inventory and Effects Evaluation

An applicant shall 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. **DSL, upon consultation with the state agencies identified in 4.2.1, may waive any part of this Section determined to be unnecessary for evaluating the project under the policies, goals, and objectives of Part 4.**

4.3.4. Inventory Content

The applicant shall provide necessary data and information sufficient to determine the scope, likelihood, and significance of reasonably anticipated potential effects to coastal resources and uses. The Resource and Use Inventory and Effects Evaluation listed below apply to all proposed pipelines, utilities or fixtures within the territorial sea 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. Undersea cables installed on or under the territorial sea do not need to include those items that are specifically identified for pipelines, utilities or fixtures.

Potential Changes: 4

4.7.1 Undersea Cables

The owner or operator of the undersea cable shall submit to the Department of State Lands for approval a decommissioning plan and follow the process for decommissioning and recovery as follows:

1) At least 180 days before decommissioning an undersea cable, the owner or operator of the undersea cable shall submit to the Department of State Lands for approval a decommissioning plan that includes:

- a) A cost estimate, prepared by a person qualified by experience and knowledge to prepare the estimate, for decommissioning the cable and restoring the area authorized by the easement to a natural condition;
- b) A detailed description of and proposed schedule for the decommissioning and restoration work, including any corrective action that may be required under the easement;
- c) A detailed description of segments of bore pipe and undersea cable proposed to be left in place to avoid or minimize impacts to aquatic resources; and
- d) A proposed form of financial assurance in an amount equal to the cost estimate under paragraph (a) of this subsection.
- e) If any portion of a cable is proposed to be left in place, the owner or operator shall submit an environmental impact assessment demonstrating the level of damage to the environment caused by cable removal.

Potential Changes: 5

4.5 Installation

4.5.1 Cable Burial.

4.5.1.1 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 would do more damage than not burying the cable or burial cannot be practicably achieved without significant impacts to the marine environment. The state shall require, as necessary, formal written agreements between affected ocean users as evidence that potential adverse effects of not burying the cable have been mitigated to the maximum extent practicable.

4.5.1.2 In federal waters:

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 the approving state agencies, 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 if the state agrees that adverse effects of not burying the cable, pipeline, other utility or fixture, have been avoided, minimized, and or mitigated to the maximum extent practicable. The state shall require, as necessary, formal written agreements between affected ocean users as evidence that potential adverse effects of not burying the cable have been mitigated to the maximum extent practicable.

4.5.1.3 The applicant shall verify burial to the easement-granting agency by written assurance. The state may require photographic or other evidence of burial from the applicant.

4.5 Installation

4.5.1 Cable Burial.

4.5.1.1 - All undersea cables crossing the seafloor 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 the adverse effects of burial to coastal uses and resources would exceed the adverse effects of not burying the cable, provided that adverse effects of not burying the cable have been avoided, minimized, and or mitigated to the maximum extent practicable.

4.5.1.2 - State findings related to Policy 4.5.1.1 may be based on written evidence of communication between affected ocean users.

4.5.1.3 The applicant shall verify burial to the easement-granting agency by written assurance. The state may require photographic or other evidence of burial from the applicant.

Potential Changes: 6

5 **Communication and Cooperative Mechanisms**

Written agreements between the applicant and fishers or other users shall be required by the easement-granting agency as evidence of communication and coordination when necessary to provide evidence that conflict has been mitigated to the maximum extent practicable. Such agreements may coordinate work, determine routing, identify routes, respond to emergencies, provide for mitigation of adverse effects, or specify procedures for on-going communication. Written agreements, when required, shall specify how fishers or other users and the applicant will resolve disputes over lost fishing gear, damage to seafloor utilities, damage to natural resources or liability for such actions.

5 **Communication and Cooperative Mechanisms**

Written evidence of communication, coordination, and conflict mitigation between the applicant and fishers or other ocean users shall be required, when necessary, by DSL. Such documents may coordinate work, determine routing, identify routes, respond to emergencies, provide for mitigation of adverse effects, or specify procedures for on-going communication. Written evidence, when required, shall specify how fishers or other users and the applicant will resolve disputes over lost fishing gear, damage to seafloor utilities, damage to natural resources or liability for such actions.

Potential Changes: 7

- Throughout Part Four the phrase “Within or affecting the territorial sea” is used.
- This was changed from “ Within or directly affecting the territorial sea” with most members of the Working Group in agreement with this change.
- The reasoning behind this removal: In applying Federal Consistency NOAA allows for “reasonably foreseeable” effects that are direct, indirect, or cumulative. The use of the phrase “within or directly affecting the territorial sea” may limit the state in its federal consistency jurisdiction.



Territorial Sea
3 mile wide coastal
ribbon under state
jurisdiction