

PMEC- SETS REGULATORY FRAMEWORK AND STRATEGY

July 1, 2013

Please reference the PMEC-SETS BOEM Lease Application document (dated June 17, 2013) for specific details regarding the overall project. This document provides an overview of the current regulatory strategy and is subject to change.

Using a collaborative process involving relevant federal, state and local agencies, OSU has developed a regulatory framework and strategy for the Pacific Marine Energy Center South Energy Test Site (PMEC-SETS). As part of this task, OSU began engaging with the Bureau of Ocean Energy Management (BOEM) and the Federal Energy Regulatory Commission (FERC) in 2012 to share information about PMEC and prepare for the regulatory process. In January '13, the PMEC Regulatory Work Group was formed and comprised of federal/state resource agencies and non-governmental organizations involved in the permitting process, to collectively explore the project and identify key regulatory and environmental considerations.

The following outlines the current approach to the regulatory process based on existing information and feedback from PMEC-SETS and the resource agencies. Although this process is representative of the current project, it is subject to change as more technical information and exchanges become available.

In conjunction with convening the agency workgroup, a regulatory framework was developed with a goal of streamlining the overall process and maximizing opportunities for coordinated review and approval. As described below, key components of this approach include coordinating the timing of application submittals, consolidating application materials, and collaborating with agencies.

JOINT NEPA, COORDINATED CONSULTATIONS & AGENCY COLLABORATION

Regulatory Strategies

- Because the information requirements for the BOEM lease and FERC License are similar, NNMREC will coordinate the timing and content of the lease and license applications such that BOEM and FERC can conduct simultaneous reviews.
- National Environmental Policy Act (NEPA) compliance is required for both the BOEM Lease and FERC License; however, the NEPA process can be coordinated. NNMREC will prepare and submit a single, comprehensive Environmental Assessment (EA) or Environmental Impact Statement (EIS) to BOEM and FERC so that they can conduct a single, Joint NEPA process.
- To further streamline the permitting process, NNMREC will submit a Request for Departure from the Site Assessment Plan (SAP) Requirements. This will reduce the overall timeframe and simplify

the review process by eliminating the time and resources needed to prepare and approve a SAP.

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- To avoid the need for an additional NEPA process, P MEC will attain authorization from the U.S. Army Corps of Engineers under Nationwide Permit #52 (rather than an Individual Permit).
- Consultation under the Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), Magnuson Stevens Act (MSA), and Migratory Bird Treaty Act (MBTA) is required for the BOEM Lease, FERC License and Corps Nationwide Permit. To consolidate the documentation needed for these consultations, NNMREC will prepare a comprehensive Biological Assessment that can be used to support a single, coordinated consultation process for the Lease, License and Nationwide Permit.
- Coastal Zone Management Act (CZMA) Consistency and Water Quality Certification (WQC) are also required for the BOEM Lease, FERC License, and Corps Nationwide Permit. As with the environmental consultations, NNMREC will prepare one Statement of Consistency and one WQC application, both of which to include the scope of activities to be authorized under the Lease, License and Nationwide Permit.
- Recognizing the value of a collaborative process, NNMEREC will continue to convene the Regulatory Work Group during the permitting process to ensure all parties remain informed and engaged. In particular, OSU will maintain close coordination with the agencies as application materials and environmental documentation are developed to ensure that they provide the information needed to inform decision making, thus facilitating a timelier process.

SCOPE & SCHEDULE

An initial task for the P MEC Regulatory Workgroup was to define the scope of the regulatory process scope – i.e., confirming which particular authorizations are required for each aspect of the project. To support this task, a Regulatory Schematic (i.e. Framework) was developed to clarify agency jurisdiction over the various project components, as well as a Table of Authorizations that identifies the authorizations required and the agencies responsible for issuing them. Both the schematic and table were shared with the Regulatory Work Group and finalized per their input. In addition to confirming the scope of the regulatory process, the workgroup has discussed the process schedule, with a focus on the sequence and timing of the various review processes. After the initial meeting in January, the Regulatory Work Group convened in March, and again in May. Based on these discussions, a summary of the P MEC permitting process has been developed, as well as a Gantt chart depicting the overall sequence of events.

¹ NEPA is required for SAP approval and for lease issuance; however, if the site assessment activities do not involve installation of “bottom founded structures” (i.e., anchors) prior to lease issuance, then a SAP is not required and BOEM only has to conduct NEPA for the lease.

PROCESS SUMMARY

The PMEC regulatory process will officially commence with the submittal of an Unsolicited Lease Request to BOEM, which was submitted on June 17, 2013. As part of the ongoing collaboration with the Regulatory Work Group, an advance copy of the lease request was offered to the group prior to the official submittal. Upon receipt of the lease request, BOEM will conduct an internal review and share the lease request with the Oregon Interagency Task Force. BOEM will then publish a Request for Interest (RFI) in the Federal Register (FR), followed by public comment period (likely 45 days). After reviewing and addressing any comments, BOEM will publish a Determination of No Competitive Interest (DNCI) in the FR.²

Within 60 days of the DNCI, NNMREC will submit a Request for Departure from the SAP Requirements to BOEM. Shortly thereafter, NNMREC will submit a Notice of Intent (NOI) and Preliminary Application Document (PAD) to FERC. Coordinating the timing of the Request for Departure with the NOI/PAD will enable BOEM and FERC to conduct Joint NEPA Scoping. During the Joint NEPA Scoping, NNMREC will share draft environmental monitoring plans with the agencies for their review and feedback.

In conjunction with the NEPA Scoping process, NNMREC will prepare a Draft License Application (DLA). After submitting the DLA to FERC, a comment period will follow to provide an opportunity for agencies and stakeholder to review and provide feedback on the proposed project. NNMREC will use input from the NEPA Scoping and DLA comments to inform the final project design and environmental monitoring plans, as well as the Draft EA/EIS and Biological Assessment (BA). The revised project description and environmental monitoring plans will be submitted to FERC with the Final License Application (FLA), and the Draft EA/EIS will be provided to FERC and BOEM.

Shortly thereafter, NNMREC will request a Land Use Compatibility Statement (LUCS) from the Lincoln County Planning Department. Once the LUCS is issued, NNMREC will submit a Joint Permit Application to the Corps of Engineers (the Corps) and the Department of State Lands (DSL) for the Nationwide Permit (NWP) and Removal-Fill Permit, respectively. In addition, NNMREC will include a Statement of Consistency with the FLA and JPA to support the Department of Land Conservation and Development (DLCD) in its CZMA Consistency Determination for the FERC License, BOEM Lease and Corps Permit. Similarly, NNMREC will include documentation to inform the Department of Environmental Quality's WQC review for the License, Lease and NWP.

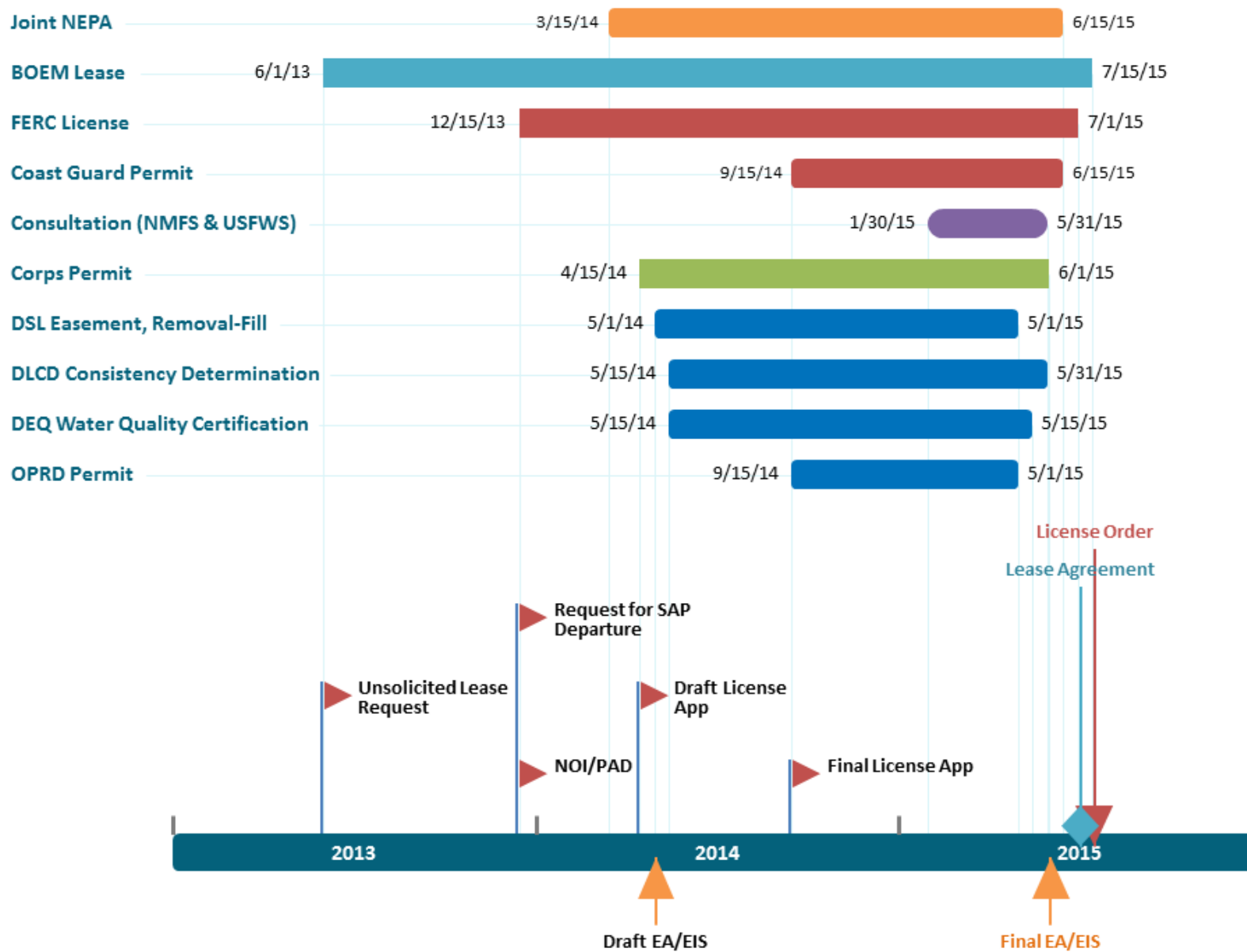
After completing their internal agency reviews, FERC and BOEM will publish the Draft EA/EIS, which will commence a public comment period. Next, NNMREC will provide the Biological Assessment to the National Marine Fisheries Service (NMFS) and US Fish and Wildlife Service (USFWS) to support consultation with the Corps, FERC and BOEM under their respective statutory authorities (i.e., ESA, MMPA, etc.). At the same time, NNMREC will submit an application to DSL for the Cable Easement, as

² In order for competition to exist, another party must express interest in obtaining a research lease in the area that NNMREC is requesting AND provide a complete lease application – including legal and financial qualification documentation; this scenario is highly unlikely, and this permitting summary reflects a non-competitive lease process.

well as Ocean Shore Permit application to the Oregon Parks and Recreation Department (OPRD). Finally, NNMREC will submit a Private Aids to Navigation (PATON) Permit application to the US Coast Guard.

Upon completion of the NEPA analysis and internal agency reviews, FERC and BOEM will publish a Final EA/EIS with responses to agency and stakeholder comments. Consultation with NMFS and USFWS will conclude around the same time, at which time NMFS and USFWS will issue their determinations and conditions for the FERC License, BOEM Lease and NWP. Once DLCD, DSL, DEQ, and the OPRD will complete their reviews and issue the respective state permits, DLCD will issue its Determination of Consistency. The WQC and PATON Permit will also be issued around this time.

Once all the environmental compliance determinations have been made and the state permits are in place, the Corps will issue the NWP and BOEM will issue the Lease. Finally, FERC will issue the License Order, along with any conditions required by NMFS and USFWS. The draft schedule that has been developed as part of this regulatory strategy is depicted in the figure below.



**The precise sequence and duration of activities are subject to change.*