



Guidance Document: Key Legislation for Consenting in China

The guidance documents are intended to be available for regulators and advisors as they carry out their decision-making and for developers and their consultants as they prepare consenting and licensing applications. This country-specific document presents an overview of key consenting requirements relevant for marine renewable energy development in the United States from pre-application, through to application and post-consent and is intended mainly for developers and consultants.¹ It is not intended to replace any formal guidance or prescribe action, but rather provide a starting point for understanding the key requirements of the regulatory framework.

China regulatory context

In China, consenting processes for marine renewable energy (MRE) projects usually consist of applications for power permits, sea area use rights, above water and underwater activity licenses, submarine cable and pipeline route investigation and laying construction, and completion of a marine environmental impact assessment (EIA).

Consents and licenses are regulated by several administration authorities, implemented in an integrated management system that includes national unified supervision and authorization to local government hierarchically. Table 1 shows the information of the consents (permissions), authorities and regulations, for MRE projects. The main national administration authorities include the State Oceanic Administration (SOA), National Energy Administration (NEA), Ministry of Ecological Environment (MEE), Ministry of Natural Resources (MNR). Additional authorities may be involved at the local level.

Table 1. Consents, authorities, and regulations for MRE projects in China.

Consent	Authority	Legislation/Regulation	Specific stipulation
Power permit	National Energy Administration (NEA) and its local agencies	Administration Regulations for Supervision of Power Business License ²	NEA is responsible for the supervision and administration of power business licenses nationwide, and its local agencies are responsible for local permits within their jurisdiction.
		Notice to NEA on Implementing the Reform of "Release Management and Service" and Optimizing the Management of Power Business License ³	MRE projects with an installed capacity of less than 6MW are not included in power business license management.
Sea Area Use Rights	National and local marine administrative departments	Law of the People's Republic of China on the Administration of the Use of Sea Areas ⁴	Article 3 requires that units and individuals who will use sea areas must obtain sea area use rights.

¹This country-specific document should be read in conjunction with the background guidance document, which can be found on *Tethys*: <https://tethys.pnnl.gov/guidance-documents>.

²http://zfxgk.nea.gov.cn/2020-12/25/c_139629696.htm

³http://zfxgk.nea.gov.cn/2020-03/23/c_138960403.htm

⁴http://www.gov.cn/gongbao/content/2001/content_61173.htm



			Defines the administrative department in charge.
		Regulations on the Administration of Sea Area Use Rights ⁵	Article 4 provides that marine administrative departments at or above the county level shall be responsible for accepting, examining, and submitting applications for the use of sea areas for approval. Each province implements their own regulations.
Marine environmental impact assessment	National and local marine ecological and environmental protection departments	Marine Environmental Protection Law of the People's Republic of China ⁶ , Regulations on the Prevention and Control of Marine Environment Pollution and Damage by Offshore Projects ⁷	A marine environmental impact assessment (EIA) report is required to be prepared and submitted to the relevant administrative department for examination and approval before the construction of the project.
		Regulations on the Management of Environmental Impact Assessment of Offshore Projects ⁸	Defines the EIA system and the regulators.
		Approval procedures for EIA report of offshore projects of State Oceanic Administration ⁹	The Ministry of Ecology and Environment (MEE) ¹⁰ is responsible for the approval of the EIA reports for MRE projects such as tidal energy, wave energy, and temperature gradient.
Application for submarine cable and pipeline route investigation	Branches of the State Oceanic Administration (SOA)	Measures for the implementation of provisions on administration of the laying of submarine cables and pipelines ¹¹	Defines the process for application and approval of submarine cable and pipeline route investigation and laying construction. The submarine cable and pipeline with a length less than 2 km need not go through examination and approval.

⁵http://english.mee.gov.cn/Resources/laws/environmental_laws/202012/t20201211_812661.shtml

⁶http://www.mee.gov.cn/ywgz/fgbz/fl/201805/t20180517_440477.shtml

⁷http://www.gov.cn/zhengce/2020-12/27/content_5574861.htm

⁸http://f.mnr.gov.cn/201806/t20180628_1942481.html

⁹http://f.mnr.gov.cn/201806/t20180629_1965976.html

¹⁰ According to the 2018 Plan on Deepening Reform of Party and State Institutions (http://www.gov.cn/zhengce/2018-03/21/content_5276191.htm#1), the marine environmental protection responsibilities were transferred from the State Oceanic Administration to the MEE.

¹¹<http://english.mofcom.gov.cn/article/lawsdata/chineselaw/200211/20021100050627.html>



and laying construction			
Above water and underwater activity license	Local maritime administrative agency	Regulations of the People's Republic of China on the Administration of Navigation Safety for Above Water and Underwater Activities ¹²	Defines the process for application of above water and underwater activity license, which is required for any project in the marine environment.

Species and/or populations at risk

Potential effects to species and/or population in China are regulated by the Ministry of Ecology and Environment (MEE) and the Ministry of Natural Resources (MNR) (Table 2).

Table 2. Regulations related to species and/or populations at risk.

Agency	Relevant Statute	Implementation
Ministry of Ecology and Environment (MEE) and local marine ecological and environmental protection departments	Regulations on the Prevention and Control of Marine Environment Pollution and Damage by Offshore Projects	A marine project Environmental Impact Assessment (EIA) is required to conduct comprehensive analysis, prediction, and assessment, and put forward corresponding ecological protection measures to prevent, control, or mitigate the impact and damage of the project on marine environment and marine resources. Consult is required with fishery administrative departments.
	Technical Guidelines for Environmental Impact Assessment ¹³	It defines the contents of EIA of marine energy development project, which contains marine ecological and biological resources impact assessment.
Ministry of Natural Resources (MNR) and marine administrative departments	Technical Guidelines for Sea Area Use Assessment ¹⁴	Analysis of ecological and resource impacts of the project are significant contents of sea area use assessments. An ecological impact analysis includes effects on biological resources, rare and endangered species, and communities. A marine biological resource impact assessment is needed, and the loss of living resources (including fishery resources) caused by the project needs to be evaluated. Consultation is required with fishery administrative departments.

¹²http://www.gov.cn/gongbao/content/2019/content_5395485.htm

¹³https://english.mee.gov.cn/Resources/standards/others1/Technical_Guideline_EIA/

¹⁴http://f.mnr.gov.cn/201807/t20180703_1995363.html



Habitat alteration or loss

Potential effects to habitat are regulated by MEE and MNR, which are important parts of marine EIA and Sea Area Use Assessment (Table 3). Impacts on species and habitats are often assessed simultaneously in the marine EIA.

Table 3. Regulations related to habitat alteration or loss.

Agency	Relevant Statute	Implementation
Ministry of Ecology and Environment (MEE) and local marine ecological and environmental protection departments	Marine Environmental Protection Law of the People's Republic of China	The state delineates protected areas for key marine ecological function, sensitive and fragile areas (Article 3). Chapter III requires protection of typical and representative marine ecosystems such as mangroves, coral reefs, coastal wetlands, islands, bays, estuaries, and important fishery waters. Marine nature reserves are established in areas with high species abundance or concentrated areas of rare and endangered species. Project site selection should accord with marine functional zone management and strictly abide by marine ecological red line regulations. ¹⁵
Ministry of Natural Resources (MNR) and local departments	Regulations on the Administration of Sea Area Use Rights	Establishes functional divisions of the seas to protect and improve the ecological environment and ensure sustained utilization. Consultation is required with fishery administrative departments.
	National Marine Functional Zoning (2011-2020)	MRE zones are designated as a subclass of the minerals and energy zone according to the classification system of marine functional zones. It requires that MRE projects should prevent topographic changes of islands, beaches, and seabed, and shall not affect the adjacent marine ecological sensitive areas and sub sensitive areas.

Effects on water quality

Potential effects on water quality are regulated by MEE and MNR (Table 4).

Table 4. Regulations related to effects on water quality

Agency	Relevant Statute	Implementation
Ministry of Ecology and Environment (MEE) and local marine ecological and environmental protection departments	Regulations on the Prevention and Control of Marine Environment Pollution and Damage by Offshore Projects	Chapter III describes pollution prevention and controls to consider in design and environmental assessment. County-level departments are responsible for supervision and inspection of operations and investigation of marine pollution violations. MRE project zones follow the second class of sea water quality standard or above in China.

¹⁵ Marine ecological red line refers to a management system where important marine ecological functional zones, ecological sensitive zones and ecological fragile areas are classified as key control zones under strict classified control, so as to protect the health and safety of the marine ecology.



	Technical Guidelines for Environmental Impact Assessment	Assessment of effects on water quality is a necessary part of the marine EIA.
	Marine Environmental Protection Law of the People's Republic of China	The state establishes and implements a total pollution control system in key sea areas, determines the total control index of major pollutants discharged into the sea, and allocates discharge control quantities to major pollution sources. Specific measures shall be formulated by the State Council. Units and individuals that directly discharge pollutants into the ocean must pay pollutant discharge fees in accordance with national regulations.
Ministry of Natural Resources (MNR) and marine administrative departments	Regulations on the Administration of Sea Area Use Rights, Technical Guidelines for Sea Area Use Assessment	For the sea area use assessment of marine project, it is required to forecast and estimate the oceanic hydrology and hydrodynamics conditions, topography, erosion and deposition, water quality, and sediment conditions.

Effects on social and economic systems

Potential effects on social and economic systems are mainly regulated by MEE and MNR (Table 5).

Table 5. Regulations related to effects on social and economic systems.

Agency	Relevant Statute	Implementation
Ministry of Ecology and Environment (MEE) and local marine ecological and environmental protection departments	Regulations on the Prevention and Control of Marine Environment Pollution and Damage by Offshore Projects, Technical Guidelines for Environmental Impact Assessment	For the EIA of a marine project, it is recommended to analyze and forecast effects on adjacent sea area functions and other sea using activities, and to make environmental economic cost-benefit analysis.
	Marine Environmental Protection Law of the People's Republic of China	Chapter III requires protection for areas of marine natural relics with cultural value, as well as restoration of marine ecology that has important economic and social value.
Ministry of Natural Resources (MNR) and marine administrative departments	Regulations on the Administration of Sea Area Use Rights, Technical Guidelines for Sea Area Use Assessment	The applicants need to conduct a coordination analysis of sea area development and utilization, including impacts on other activities in the sea area, defining stakeholders, analysis of conflicts between stakeholders, and coordination of relevant interests. They also need to consult with departments in charge of channel, anchorage, navigation, flood control, and fisheries, if needed.



Additional Information

Marine Spatial Planning

In China, marine function zoning (MFZ) is a kind of marine spatial planning for sea use activities that divides marine space into different functional zones by following the criteria of MFZ. MFZ not only provides the legal basis for marine management but also guides the distribution of industries in marine space, including MRE. MFZ plans are implemented at national, provincial and municipal, or county levels. The third generation MFZ, National Marine Functional Zoning (2011-2020)¹⁶, covered all sea areas under the jurisdiction of China. Each coastal province (autonomous regions and municipalities), city, or county has completed and implemented its MFZ plan.

The current MFZ divides the marine area into 8 primary classifications and 22 secondary classifications of basic marine functional zones. In the classification system, the MRE zone is defined as a subclass of the minerals and energy zone, which refers to the sea areas used for developing and utilizing tidal energy, wave energy, and other renewable energies.

Each kind of functional zone has specific management requirements, and provincial and municipal MFZ agencies design their requirements for the management and regulation of sea-use types, sea-area governance, environmental conservation, as well as quality of sea water, marine sediment, and marine biology. During the approval process, an MRE project must be examined and assessed to determine whether it meets the MFZ management requirements.

Adaptive Management

There is no formal regulation for adaptive management for MRE in China at present.

Consistency Between Jurisdictions

The application and consenting processes of MRE are multi-sectoral and multi-system collaborative processes. Figure 1 shows the applications and consenting processes of MRE.

¹⁶http://f.mnr.gov.cn/201806/t20180621_1830454.html<http://www.ncsb.gov.cn/n1/n128/n235/n259/180207144424938665.html>

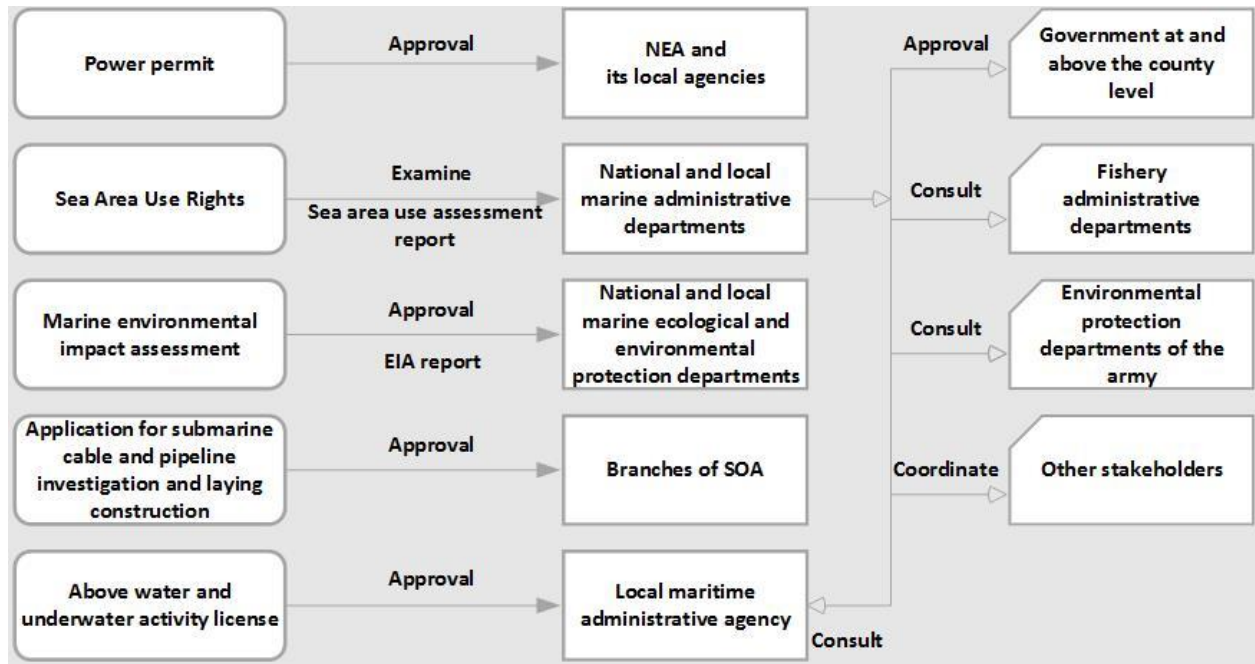


Figure 1. Applications and consenting processes of MRE.