

Guidance Documents: Key Legislation for Consenting in Japan

The guidance documents are intended to be available for regulators and advisors as they carry out their decision-making and for developers as they prepare consenting and licensing applications. This country-specific document presents an overview of regulations relevant for marine renewable energy development in Japan.¹ It is not intended to replace any regulatory requirements or prescribe action, but rather provide a starting point for understanding the regulatory context.

Japan regulatory context

In Japan, there are legal systems in place to oversee spatial use of Japanese sea areas. There are a variety of regulatory bodies in charge of permissions for activities, which may include planning, area designation, and construction work, depending on the sea area, such as coasts, harbors, shipping routes, natural parks, protected water surfaces, etc. The scope of hearing and discussion also varies from project to project. Regarding marine renewable energy (MRE) development, the Minister of Economy, Trade, and Industry (METI) and the Minister of Land, Infrastructure, Transport, and Tourism (MLIT) established the Act on Promoting Utilization of Sea Areas for Development of Power Generation Facilities Using Maritime Renewable Energy Resources. Also, the Minister of Land, Infrastructure, Transport, and Tourism (MLIT) amended the Port and Harbor Act to permit using a part of a port area for MRE development.

Table 1. Government ministry with jurisdiction over licensing/authorization for marine renewable energy projects.

Agency	Legislation	Details
Ministry of Economy, Trade and Industry (METI) Minister of Land, Infrastructure, Transport and Tourism (MLIT)	Act on Promoting Utilization of Sea Areas for Development of Power Generation Facilities Using Maritime Renewable Energy Resources ²	Designation of “promotion areas” suitable for power generation offshore. ³ The successful applicant proceeds to the next steps such as obtaining “permission for exclusive use” of the designated area and gaining “approval for FIT-based arrangement” for electricity generated by renewables to be purchased at pre-determined prices.
MLIT	Port and Harbor Act ⁴	Determines who can apply for permission to occupy a port area for marine renewable energy by public offering.

¹ This 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>.

² https://www.enecho.meti.go.jp/en/category/special/article/detail_152.html

³ The major target for this legislation is offshore wind power generation and currently there is no similar act for MRE. However, the legislation is not limited to offshore wind.

⁴ The original Port and Harbor Act refers to <http://www.japaneselawtranslation.go.jp/law/detail/?vm=04&re=01&id=1976>. This act was amended several times. Permission to occupy a port area for marine renewable energy was included in 2016.

Species and/or populations at risk

Potential effects to species and/or populations at risk are regulated by the Ministry of Environment (Table 2).

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

Agency	Legislation	Details
Ministry of Environment	Environmental Impact Assessment Act ⁵	The purpose of this Act is that the project proponent conducts an environmental impact assessment in advance of a project that changes the shape of the terrain or that involves the construction of a new structure.
Ministry of Environment	Act on Conservation of Endangered Species of Wild Fauna and Flora ⁶	This act designates protections for endangered species and their natural habitat. Harm to endangered species is prohibited under Chapter 2, Section 2 unless a permit from the Ministry of Environment is obtained. Construction activities are prohibited within 1km of a protected natural habitat area under Chapter 3, Section 2 unless a permit from the Ministry of Environment is obtained.

Habitat alteration or loss

Potential effects to habitat are regulated by the Ministry of Environment and the Ministry of Agriculture, Forestry and Fisheries (Table 3).

Table 3. Regulations related to habitat alteration or loss.

Agency	Legislation	Details
Ministry of Environment	Natural Parks Act ⁷ , Nature Conservation Act ⁸	These acts define areas that are to be avoided as part of sea area use agreements. Developers should avoid siting in areas with special designations for biological diversity or conservation.
Ministry of Agriculture, Forestry and Fisheries	Act on the Protection of Fishery Resources ⁹	This act determines protected water surface and areas that are designated as important for fisheries, notably by protecting spawning grounds. Developers should avoid siting in areas with these designations.

⁵ <http://www.japaneselawtranslation.go.jp/law/detail/?id=3375&vm=&re=>

⁶ <http://www.japaneselawtranslation.go.jp/law/detail/?id=2103&vm=04&re=01>

⁷ <http://www.japaneselawtranslation.go.jp/law/detail/?id=3060&vm=04&re=01>

⁸ <http://www.japaneselawtranslation.go.jp/law/detail/?id=3556&vm=04&re=02>

⁹ <http://www.japaneselawtranslation.go.jp/law/detail/?id=32&vm=&re=>

Effects on water quality

Potential effects to water quality are regulated by the Ministry of Environment and the Ministry of Land, Infrastructure, Transport and Tourism (Table 4).

Table 4. Regulations related to effects on water quality.

Agency	Legislation	Details
Ministry of Environment	Water Pollution Prevention Act ¹⁰	The purpose of this Act is to prevent the pollution of water (including deterioration of the condition of water) by regulating effluent discharged by factories and workplaces into Areas of Public Waters. Developers are liable to compensate for loss or damage if pollution is discovered.
Ministry of Land, Infrastructure, Transport and Tourism (MLIT) Ministry of Environment	Act on Prevention of Marine Pollution and Maritime Disaster ¹¹	The purpose of this law is to regulate the discharge of oil, harmful liquid substances, waste, etc. from ships and the other marine structures into the ocean and the disposal under the seabed.

Effects on social and economic systems

At present, there are no social or economic considerations within the Japanese regulatory context for MRE.

Additional Information

Marine Spatial Planning

- No legislation for marine spatial planning exists in Japan and there has been no experience to-date regarding marine spatial planning for MRE development.

Adaptive Management

- No legislation for adaptive management exists in Japan and there has been no experience to date regarding adaptive management for MRE development.

Consistency Between Jurisdictions

- Guidelines for formulating a comprehensive coastal area management plan was established in 2000, but they have not been used. The Basic Plan on Ocean Policy (2008)¹² describes that implementation of an integrated coastal management plan.

Basic Acts

- Basic Act on Biodiversity¹³

¹⁰ <http://www.japaneselawtranslation.go.jp/law/detail/?vm=04&re=01&id=2815>

¹¹ http://www.japaneselawtranslation.go.jp/law/detail_header?id=949&vm=&re= (full translation of the act is not provided)

¹² https://www8.cao.go.jp/ocean/english/plan/pdf/plan02_gaiyou_e.pdf

¹³ <http://www.japaneselawtranslation.go.jp/law/detail/?id=1950&vm=04&re=01>



- The Basic Environment Law¹⁴
- Fisheries Basic Act¹⁵
- Fishery Act¹⁶
- Basic Act on Ocean Policy¹⁷

¹⁴ <http://www.env.go.jp/en/laws/policy/basic/index.html>

¹⁵ http://www.cas.go.jp/jp/seisaku/hourei/data/fba_2.pdf

¹⁶ <http://www.japaneselawtranslation.go.jp/law/detail/?id=1871&vm=04&re=01>

¹⁷ <http://www.japaneselawtranslation.go.jp/law/detail/?id=147&vm=&re=>