



## Guidance Documents: Key Legislation for Consenting in Portugal

*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.<sup>1</sup> 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.*

### Portuguese regulatory context

Portugal has no specific legal framework to support the licensing process for marine renewable energy (MRE). However, following recent indications enabled by the European Union Net Zero Industry Act<sup>2</sup> (NZIA), the Portuguese Government has mandated the creation of a Working Group, formed to work towards the Permitting and Licensing of Renewable Energy Projects – Estratégia de Missão para as Energias Renováveis<sup>3</sup> (EMER 2030). The aim is to establish a One-Stop-Shop, centralizing all procedures and ensuring faster and transparent permitting workflows. This infrastructure is expected to develop procedures towards the attribution of grid connection for new renewable energy projects, and to advance sectorial plans for sandboxes (i.e., areas implemented to accelerate renewable energies projects).

For the moment, depending on the characteristics of the project, several licensing processes must be undertaken to authorize a project; these are under the jurisdiction of fragmented public authorities (see Table 1 and 2). The main point of contact is the Directorate-General of Energy and Geology (DGEG); however, all agencies are consulted and analyze the project separately. Even though agencies work separately, some permits are interrelated (i.e., obtaining one is a condition to obtain the other) and all of them are necessary to license a project.

The licensing process for MRE projects generally includes several types of licenses, which vary depending on the project's scale:

1. Concession, or authorization for the private use of maritime space, which is called Title for Private Use of National Maritime Space (TUPEM)<sup>4</sup> (all projects);
  - a. As per the Portuguese Marine Spatial Planning (MSP) (i.e., PSOEM, see section on MSP below):
    - i. A pilot or R&D project can be installed by means of an Authorization request, these can be installed in the Portuguese Maritime Space as long as there is no conflict with other activities or Titles previously licensed.

<sup>1</sup> 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>.

<sup>2</sup> [https://single-market-economy.ec.europa.eu/publications/net-zero-industry-act\\_en](https://single-market-economy.ec.europa.eu/publications/net-zero-industry-act_en)

<sup>3</sup> Council of Ministers Resolution N<sup>o</sup> 50/2024, establishing the Mission Structure for the Licensing of Renewable Energy Projects 2030, <https://files.diariodarepublica.pt/1s/2024/03/06100/0011300116.pdf>

<sup>4</sup> The TUPEM request is submitted online through the Directorate-General for Natural Resources, Safety and Maritime Services website, <https://www.dgrm.pt/web/guest/as-om-tupem>



- ii. A commercial project must be installed by means of a Concession in areas already foreseen and classified for MRE purposes or otherwise an Allocation Plan must be submitted to alter the MSP for that specific purpose.
2. Licensing of the energy production activity
  - a. Projects > 1MW: Reserve Capacity – title issued by grid operator, Production license, and Operation license.
  - b. Projects between 30 kW and ≤ 1 MW or projects located within the Technological Free Zone (TFZ)<sup>5</sup>: Reserve Capacity – title issued by grid operator, Prior Registration, and Prior Control Certificate.
  - c. Projects between 700 W and 30 kW: Reserve Capacity – title issued by grid operator and Prior Communication.
3. License from the Maritime and Port Authorities
4. Licensing projects and ancillary facilities on land by Municipal Authorities; and
5. Environmental Licenses: The type of license depends on the project power capacity, its location, and the authorities' concern which can be addressed on a case-by-case basis.
  - a. Environmental Impact Assessment (EIA): 1) for projects with a capacity ≥50 MW or with ≥20 turbines, or projects located less than 2 kilometers from other similar projects where the combined total number of turbines is 20 or more; 2) for projects with a capacity ≥20 MW or projects with ≥10 turbines, when located inside a sensitive or protected area, or projects located less than 2 kilometers from other similar projects where the combined total number of turbines is 10 or more. The remaining MRE projects need to be submitted to a case-by-case examination, referred to as "prior appraisal and decision on EIA submission".
  - b. Environmental Appraisal Study: required for projects that do not meet the thresholds necessitating a full EIA but are still located within environmentally sensitive or protected areas (e.g., Protected areas or Natura 2000 classified areas). DGEG is the authority in charge of licensing electricity production linking with other authorities for specific permits: the Directorate General for Natural Resources, Safety and Maritime Services (DGRM) for the TUPEM, the Commission of Coordination and Regional Development (CCDR) or the Environmental Portuguese Agency (APA) for the environmental license (if needed), the local Municipal Authority for onshore facilities, and the Port Authorities for construction in the Public Maritime space. Except for Port Authorities and Municipal Authority licenses, requested during the construction works phase, all procedures are managed by the licensing authority, DGEG, from receiving the application elements to the communication of decisions and delivery of licenses to the developer.

**Table 1.** Regulatory jurisdictions in Portugal.

Designation	Location	Agencies with jurisdiction
Inland waters	Shoreward of the mean low water line	Administration of the hydrographic region (AHR), Port Authorities, Municipality, and Institute for Nature Conservation and Forests (ICNF) (only if any protected area/species are included).

<sup>5</sup> Technological Free Zones are areas set aside for testing and experimenting with new technologies, established under law ([Decree Law No. 67/2021](#)).



State waters	Shore (generally mean high water, but varies by state) to 3 nautical miles	Directorate General for Natural Resources, Safety and Maritime Services (DGRM), Port Authorities, Maritime Authority, and ICNF (only if any protected area/species are included).
Federal waters	3 to 12 nautical miles	DGRM, Port Authorities, and ICNF (only if any protected area/species are included).
Exclusive economic zone	12 to 200 nautical miles	DGRM, Port Authorities, and ICNF (only if any protected area/species are included).

**Table 2.** Public authorities with jurisdiction over licensing/authorization for various aspects of marine renewable energy projects.

Parameter	Relevant applicable laws	Licensing Authority	Title/ License
Private use of marine space	DL 38/2015 <sup>6</sup> including all amendments, transposes Directive 2014/89/EU <sup>7</sup> and develops Act 17/2014 which sets forth the Bases of Spatial Planning and Management of the National Maritime Space (LBOGEM)	Directorate General for Natural Resources, Safety and Maritime Services (DGRM)	Title for Private Use of National Maritime Space (TUPEM)
Water Resources Use	DL 226-A/2007 (amended by Act 44/2012), and DL 108/2010 (amended by DL 136/2013), recently altered by the DL 11/2023 <sup>8</sup> , known as the “Environmental Simplex” which proceeds with the reform and simplification of environmental licensing	Administration of the hydrographic region (AHR)	Title for the Use of Water Resources (Titulo de Utilização de Recursos Hídricos – TURH)
Energy Production	DL 15/2022 <sup>9</sup> that establishes the organization and functioning of the National Electric System, transposing Directive (EU) 2019/944 and Directive (EU) 2018/2001	Directorate-General of Energy and Geology (DGEG)	License for power production and grid connection
Accessory facilities onshore	DL 555/99 (amended by DL 136/2014) <sup>10</sup> – Regime Jurídico da Urbanização e Edificação (RJUE); Legal System of Urban Planning and Building	Local planning authority – Municipality	Planning Permission
Environmental Impact	DL 151-B/2013 <sup>11</sup> (Regime Jurídico da Avaliação de Impacto Ambiental - RJAIAI); Legal System of the	Environmental Portuguese Agency	Environmental Impact Statement

<sup>6</sup> [https://www.dgpm.mm.gov.pt/files/ugd/eb00d2\\_812cb3ae8a134313b6ca16e66d1bf0b7.pdf](https://www.dgpm.mm.gov.pt/files/ugd/eb00d2_812cb3ae8a134313b6ca16e66d1bf0b7.pdf)

<sup>7</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0089&qid=1707854524728>

<sup>8</sup> <https://files.dre.pt/1s/2023/02/03000/0000300192.pdf>

<sup>9</sup> <https://files.dre.pt/1s/2022/01/01000/0000300185.pdf>

<sup>10</sup> <https://files.dre.pt/1s/2014/09/17300/0480904860.pdf>

<sup>11</sup> <https://diariodarepublica.pt/dr/legislacao-consolidada/decreto-lei/2013-70122774>



Assessment (EIA)	Environmental Impact Assessment, amended and republished by DL 11/2023	(APA) – location in sensitive area	(Declaração de Impacto Ambiental – DIA)
Environmental Appraisal Study (EInCA)	License for projects non-RJAIA covered in nº 44 of DL 15/2022, amended by Rectification Declaration 11-A/2022 <sup>12</sup>	Commission of Coordination and Regional Development (CCDR) – Environmental Appraisal Study or DGEG – project not located in sensitive area	Environmental Appraisal Statement (Declaração de Incidências Ambientais – DIInCA)

### Species and/or populations at risk

Potential effects to species and/or populations at risk are regulated by Institute for Nature Conservation and Forests (ICNF), DGRM, and Portuguese Institute for the Sea and Atmosphere (IPMA) (Table 3).

**Table 3.** Regulations related to species and/or populations at risk.

Agency	Relevant Statute	Implementation
Instituto de Conservação da Natureza e Florestas (Institute for Nature Conservation and Forests – ICNF)	Natura 2000 Framework: Habitats Directive <sup>13</sup> and Birds Directive <sup>14</sup>	Established areas for the protection of endangered species and habitats. The Natura 2000 network designates Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) that aim to safeguard habitats and species of community interest, including marine habitats and seabird populations. Consultation (via DGEG and DGRM) with ICNF is required if protected areas/species occur.
ICNF	Protected Areas within the National Network of Protected Areas (RNAP) <sup>15</sup> : national parks, natural parks and reserves, protected landscapes, natural monuments, and private protected areas	The RNAP consists of areas classified under the legal framework of nature conservation and biodiversity. Protected areas encompass terrestrial and inland aquatic, as well as marine areas, where biodiversity or other natural occurrences hold special relevance, requiring specific conservation and management measures. The classification provides legal protection to maintain biodiversity, ecosystem services, and geological heritage, contributing to landscape enhancement.

<sup>12</sup> <https://diariodarepublica.pt/dr/detalhe/declaracao-retificacao/11-a-2022-180477579>

<sup>13</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31992L0043>

<sup>14</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009L0147&qid=1707853870894>

<sup>15</sup> <https://diariodarepublica.pt/dr/legislacao-consolidada/decreto-lei/2008-34502775>



Directorate General for Natural Resources, Safety and Maritime Services (DGRM) and Portuguese Institute for the Sea and Atmosphere (IPMA)	Marine Strategy Framework Directive (MSFD) <sup>16</sup>	Essential Marine Environmental Status assessments are carried out every 6 years. Portugal aims to achieve or maintain Good Environmental Status (GES) in European waters by 2026. Descriptor 1 – Biodiversity addresses species and populations at risk. Descriptor 3 – Species with commercial interest addresses species considered at risk.
DGRM and IPMA	Common Fisheries Policy (CFP) <sup>17</sup>	As an EU member state, Portugal adheres to the CFP, which includes measures to promote sustainable fisheries, prevent overfishing, and protect marine ecosystems. Conservation measures are often applied to species considered at risk.

### Habitat alteration or loss

Potential effects to habitat are regulated by ICNF and DGRM (Table 4).

**Table 4.** Regulations related to habitat alteration or loss.

Agency	Relevant Statute	Implementation
Instituto de Conservação da Natureza e Florestas (ICNF)	Natura 2000 Framework: Habitats Directive and Birds Directive	Established areas for the protection of endangered species and habitats. The Natura 2000 network designates Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) that aim to safeguard habitats and species of community interest, including marine habitats and seabird populations.
Directorate General for Natural Resources, Safety and Maritime Services (DGRM)	Marine Strategy Framework Directive (MSFD)	Essential Marine Environmental Status assessments are carried out every 6 years. Portugal aims to achieve or maintain Good Environmental Status (GES) in European waters by 2026. Descriptor 6 – Seabed Integrity addresses habitat alteration or loss.

### Effects on water quality

Potential effects to water quality are regulated by APA and CCDR (Table 5).

**Table 5.** Regulations related to effects on water quality.

Agency	Relevant Statute	Implementation
Environmental Portuguese Agency (APA) or Commission of Coordination and	Water Law: DL 58/2005 with amendments incorporates the Water Framework Directive (WFD) in Portugal. The water	The implementation of the Water Law and its amendments aims to ensure sustainable water management in Portugal, it foresees the achievement of good status of all water bodies. In addition, it details the private uses of water

<sup>16</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0056>

<sup>17</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023DC0103>



Regional Development (CCDR)	resource utilization is outlined in DL 226-A/2007, with amendments by DL 11/2023	resources requiring licensing and the quality of all water bodies.
Directorate General for Natural Resources, Safety and Maritime Services (DGRM)	Marine Strategy Framework Directive (MSFD)	Essential Marine Environmental Status assessments carried out every 6 years. Portugal aims to achieve or maintain Good Environmental Status (GES) in European waters by 2026. Descriptor 5 – Eutrophication of marine waters, Descriptor 7 – Hydrological Conditions focuses on the physical and chemical conditions of marine waters and Descriptor 8 – Contaminants addresses the concentration of contaminants in the marine environment.

### Effects on social and economic systems

Potential social and economic effects are regulated by APA and CCDR (Table 6).

**Table 6.** Regulations related to effects on social and economic systems.

Agency	Relevant Statute	Implementation
Environmental Portuguese Agency (APA) or Commission of Coordination and Regional Development (CCDR)	Environmental Impact Assessment (EIA) or Environmental Appraisal (EInca)	Require social impact assessment (e.g., requires social and economic effects, including impacts to historic and cultural resources, to be considered as part of environmental assessments).

### Additional Information

#### Marine Spatial Planning

In Portugal, marine spatial planning (MSP) is designated by Situation Plans (PSOEMs) and was published in 2019 (Resolution of the Council of Ministers 203-A/2019), under the authority of the DGRM. DGRM is responsible for managing the information relating to the subdivisions of the continent and the extended continental shelf.

The current PSOEM plan<sup>18</sup> identifies areas with potential for offshore renewable energy exploitation, including different renewable energy sources, and considering the oceanographic conditions and the distance to the coast. In terms of space specifically allocated for this purpose, there are currently three areas planned for the deployment of marine renewable energy in Portugal: 1) a 7,63 km<sup>2</sup> area for pilot projects offshore Viana do Castelo, classified as a Technological Free Zone (TFZ), including wave and wind technologies, 2) an offshore area in Aguçadoura, where several wave and wind projects have already been tested (i.e., Pelamis, Windfloat, Hi-Wave5), and 3) an area located off the coast of Peniche, where AW-Energy has previously deployed the WaveRoller technology.

<sup>18</sup> [https://www.psoem.pt/geoportal\\_psoem/](https://www.psoem.pt/geoportal_psoem/)



In Portugal, the areas dedicated to the implementation of renewable energy projects in the PSOEM appear to fall short of the number of requests submitted by developers. In addition, the polygons currently designated are destined for pilot projects and therefore the designation of specific areas for commercial projects have been lacking.

As a result, the Portuguese authorities are currently developing an Allocation Plan by public initiative for offshore renewables areas (Plano de Afetação para Energias Renováveis Offshore – PAER), with the purpose of revising the current PSOEM. Initially, the proposed areas were planned for developing 10 GW of offshore renewables until 2030, through a phased, concurrent process. However, the government has already recognized that the target was too ambitious and has currently decreased it to 2 GW until 2030, but this viability of this target is still under revision and can be updated. The Allocation Plan underwent a Strategic Environmental Assessment and a public consultation phase (through December 2023), having garnered approximately 150 comments. Authorities are in the process of compiling a report on public feedback and plan to finalize and officially approve the final version of the PAER in 2024.

#### Adaptive Management

Although not formally implemented, there is some form of adaptive management since developers must submit yearly monitoring reports. After the monitoring cycle ends, results are analyzed by the authorities and in accordance with the outputs, authorities can re-adjust the monitoring or indicate its continuity (Machado et al. 2021).<sup>19</sup>

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<sup>19</sup> Machado, I., M. Apolonia, I. Menchaca, and J. Bald. 2021. “Deliverable 4.4. Guidance for a Risk Based and Adaptive Management Consenting of Wave Energy Projects in Spain and Portugal.” Corporate deliverable of the WESE Project funded by the European Commission. D4.4. Agreement Number EASME/EMFF/2017/1.2.1.1/02/SI2.787640. doi: 10.13140/RG.2.2.22920.49927