



Guidance Documents: Key Legislation for Consenting in France

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 France from pre-application, through to application and post-consent.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.

France regulatory context

Regulatory responsibility for marine renewable energy (MRE) in France extends out to the limits of the Economic Exclusive Zone (200 nautical miles) and is the responsibility of several “French Departments” (Table 1). Any MRE developer is subject to request three types of authorizations from administrative authorities (the maritime and regional Prefects): a concession to use the public maritime domain, an environmental permit, and a declaration of public utility (Table 2). Different kinds of MRE are being developed or will be developed in France, both along the coasts of mainland France and overseas. Tidal, wave, and wind energy are available both nearshore and offshore of mainland and overseas France, while thermal energy is only available overseas.

Table 1. Regulatory jurisdictions in France.

Designation	Location	Agencies with jurisdiction
The maritime regulatory jurisdictions in France include several distinct zones defined by the Montego Bay Convention ² . The Order of 8 December 2016 on maritime areas specifies which ones are under the sovereignty or jurisdiction of the French government. ³		
Territorial sea	Maritime area covering the area from the baseline ⁴ to a distance of 12 nautical miles	French state, regional, and local administration
Contiguous area	Maritime area beyond the territorial sea ranging from 12 nautical miles and may not extend beyond 24 nautical miles from the baseline	French state
Exclusive Economic Zone (EEZ)	Maritime area beyond the territorial sea ranging from 24 nautical miles and extending up to 200 nautical miles	French state
Extended continental shelf	The underwater coastal area up to the continental shelf limits (foot slope), with a maximum of 350 nautical miles from the baselines of the territorial sea	French state – only for seabed and subsoil International area – for navigation and anthropogenic activities in the water column

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.un.org/depts/los/convention_agreements/texts/unclos/unclos_f.pdf; an article (in French) explaining this convention and the maritime context 40 years after its signature can be found here: <https://www.defense.gouv.fr/actualites/droit-mer-il-y-a-40-ans-convention-montego-bay>

³ Ordonnance n°2016-1687 du 8 Décembre 2016 relative aux espaces maritimes relevant de la souveraineté ou de la juridiction de la République française: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000033553233/>

⁴ Baseline: Determined by the level reached by the sea water at low tide or by the closing line of bays

**Table 2.** Agencies with jurisdiction over licensing/authorization for MRE projects.⁵

Agency	Relevant Statute	Implementation
Departmental Prefects	L. 2124-1 ⁶ and more, of the general code of property of public people	For MRE project & grid connection in EEZ: Concession on Occupation of the Public Maritime Domain (DPM), from the coastal zone until +12 NM.
Maritime Prefects ⁷	Ordinance n° 2016-1687 of 8 December, 2016 ⁸	For MRE project & grid connection in the Territorial Sea: Authorizations related to the relevant maritime areas of the sovereignty or jurisdiction of the French Republic. For MRE project & grid connection in EEZ: Same authorizations as above are considered for Environmental Authorization. Environmental Impact Assessment (EIA) must be included in this authorization.
French Ministry of the Environment	Art. L. 214-3 ⁹ and L. 181-1 ¹⁰ and more of French Code of the Environment	For MRE project & grid connection in EEZ: Environmental Authorization (including EIA and potential derogation regarding species and habitats protected areas).
French Ministry of the Energy	L. 323-3 ¹¹ of French Code of the Energy	For grid connection & electric post– Réseau de Transport d'Electricité (RTE) responsibility: Declaration as public utility.
Township	French Code of Urbanism ¹²	For electrical infrastructures on land: Building permit.

MRE pilot and commercial projects must also comply with maritime spatial planning and development rules detailed in specific framework documents governed at the regional level.

The development of offshore wind farms (OWF) is governed by competitive bidding procedures initiated by the State, and more particularly by the Minister in charge of energy. This competition was first carried

⁵ <https://www.eoliennesenmer.fr/generalites-eoliennes-en-mer/cadre-reglementaire>

⁶ L. 2124-1 and more, of the general code of property of public people: https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000037701019/LEGISCTA000037703549/#LEGISCTA00037703549

⁷ For oversea territories, the role of Maritime Prefects can be held by Departmental Prefects but may vary based on the territory. See an example in the Decree regarding “the organization of the action of the State of the sea”: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000611843>

⁸ Ordinance n° 2016-1687 of 8 December 2016 relating to the relevant maritime areas under the sovereignty or jurisdiction of the French Republic: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000033553233#:~:text=L'espace%20maritime%20situ%C3%A9%20au,d%C3%A9finies%20%C3%A0%20l'article%202>

⁹ Art.214-3 of French Code of the Environment: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000042655524

¹⁰ Art.181-1 of French Code of Environment: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000033928562#:~:text=L'autorisation%20environnementale%20inclut%20les,notablement%20les%20dangers%20ou%20inconv%C3%A9nients

¹¹ Art 323-3 of French Code of the Energy: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000031068959

¹² French Code of Urbanism: <https://www.legifrance.gouv.fr/codes/id/LEGITEXT000006074075/>



out through calls for tender before the creation, in 2016, of the competitive dialogue (i.e., the first round of candidates selected before the laureate election). In the future, the process already applied for OWF will probably be rolled out for other MRE technologies. Other MRE technologies with less maturity are still not integrated in the marine spatial planning: only two areas for tidal pilot farms have been designated in the French territorial sea since 2014 (Table 3).

Table 3. History of regulatory frameworks and authorities for offshore renewable energies projects in France. For the moment, this is dedicated to offshore wind, but future MRE projects will likely follow the same rules/mechanisms.

Time Period	Regulatory frameworks	Planning Authorities	Consenting Authorities
Since 2014	Call for tenders: 2014 law that gives authority to French Minister to deliver authorization to operate an installation	The Ministry in charge of the ecological transition: to simplify the procedure for issuing administrative authorizations and shorten the deadlines to 9 months	Creation of a single document for authorization for the different rules jointly instructed by the maritime and terrestrial Prefects.
Since 2018, for commercial MRE projects	Competitive dialogue: <ul style="list-style-type: none"> • Law on a State at the service of a trusting society adopted in 2018 (ESSOC law¹³), which defines authorization procedures for offshore renewable energy installations 	The Ministry in charge of the ecological transition conducts the impact assessment before selecting the applicant/project developer.	Creation of the "envelope permit" (ESSCO law) to allow Prefects to change the characteristics of the project after the authorization has been issued.

Specific delimited areas for habitat preservation and species protection

In France, there are diverse protection tools which reflect a multiplicity of stakeholders (Table 4), objectives, and management types.¹⁴ Protection areas under European and international conventions or commitments are, most of the time, already delimited and defined at the national scale (ex: RAMSAR areas¹⁵, Biosphere reserves, etc.) or have no influence on MRE project development.

Table 4 provides a synthesis of the different delimited areas for habitats preservation and species protection, regulated by the Ministry in charge of the environment and different public institutions like the French Office of Biodiversity (Office Français de la Biodiversité - OFB). The different parts forming a MRE project can be subject to different rules or laws, depending on their location on land, within maritime areas and at sea. Marine spatial planning has to consider these constraints to delineate favourable areas for MRE projects and developers have to be compliant with the different rules. In addition to protected areas, specific tools focus on species preservation and protection.

¹³ ESSOC stands for État au Service d'une SOciété de Confiance:

<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000037307624/>

¹⁴ <https://inpn.mnhn.fr/programme/espaces-protoges/presentation?lg=en>

¹⁵ <http://www.zones-humides.org/entre-terre-et-eau/ou-les-trouve-t-on/les-sites-reconnus/les-sites-ramsar-en-france>

**Table 4.** Regulatory framework around protected areas and species within coastal and marine systems in France.

Legislation	Location	Details	Implementation/documents to be provided by developers
Conservation of natural habitats, wild fauna and flora (92/43/CEE) and wild birds (79/409/CEE) (Natura 2000)	Offshore and onshore	Defines the types of habitats, animal, or plant species that require special attention in order to ensure their survival (Annexes I and II) through the implementation of special measures concerning their habitat and protected in Natura 2000 sites called Special Areas of Conservation ¹⁶ (ZSC and ZPS). In addition, inventories are included within the Natura 2000 legislation (ZNIEFF and ZICO) as well as PNA (National Action Plan, requested for the EIA) that define the actions necessary for the conservation and restoration of the most threatened species to ensure their good conservation status.	Additional document to provide in EIA: Natura2000 notice of incidence.
The Pelagos sanctuary for the protection of marine mammals in the Mediterranean Sea	Offshore	The Pelagos sanctuary is a maritime area of 87,500 km ² and is the subject of an agreement between Italy, Monaco and France for the protection of marine mammals that frequent it.	No specific actions requested, but the developer is expected to focus on potential impacts on the species protected within the sanctuary.
Regional Natural Park (Parcs Naturels Régionaux - PNR)	Onshore and offshore	The purpose of the Regional Natural Parks is to establish economic and social territory development, while preserving and enhancing the natural, cultural and landscape heritage. Their footprint can extend to the marine environment.	Project proposed within a Regional Natural Park must be presented and approved by PNR Board.
Marine Protected Areas (MPA)	offshore	Governed by the French Office of Biodiversity (OFB), MPAs are delimited areas at sea whose objective is to protect nature in the long term. MPAs are areas where the issues of environmental protection and sustainable development of activities are conciliated. Activities that may have an impact on the marine environment are subject to authorization, which can only be delivered by the OFB or by the management council (except for certain activities related to national defense, public order, maritime safety, and pollution control).	Project proposed within an MPA must be presented and approved by MPA Board.

¹⁶ Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=LEGISSUM:l28076&from=FR>



Nature Reserves	Offshore and onshore	Several areas may be classified as Nature Reserves when the conservation of the natural environment is of particular importance or to protect them from any artificial intervention likely to degrade them. There are different types of nature reserves with different objectives. ¹⁷	Areas not compatible with MRE projects.
Sites of Coastline Conservation Agency (Conservatoire du Littoral)	Onshore and landing	The Coastline Conservation Agency is a public state institution which implements land strategies to preserve natural coastal areas. Protection of land near coastal areas is indirect, by land purchase and management.	None.
IUCN protection status (red list)	Onshore and offshore	The national red list identifies the level of threats for some species in France. It is an essential tool for identifying priorities and issues that guide management policies and strategies. Regional versions exist for some species.	Derogation demand – an augmented document showing the environmental impacts of a project and how they can be avoided or reduced.
Environmental code	Onshore and offshore	This groups together all the legal texts relating to environmental law in France. Articles L122-1 to L122-5 impose an impact study for public and private works, structures, or developments which, by their nature, size, or location, have potentially a significant effect on the environment or human health. ¹⁸	Included in EIA
The Marine Strategy Framework Directive (MSFD)	Onshore and offshore	This Directive sets out a general framework for achieving or maintaining good status of marine waters in the European Union Member States. It is implemented within the Marine Action Plans ¹⁹ , which propose a set of measures to improve the cumulative effects of human activities of projects, plans, and programmes subject to environmental assessment. Since 2018, the Marine Action Plans have been the environmental component of the strategic coastal documents. This integration allows for the joint implementation of the two framework directives (MSFD and Water Framework Directive) and a better articulation of environmental and socio-economic objectives.	Included in the EIA of the project in the sections dedicated to ‘monitoring’ and ‘avoid, reduce and offset’ measures

¹⁷ See the different kinds of nature reserves in France here: <https://inpn.mnhn.fr/programme/espaces-protoges/presentation?lg=en>

¹⁸ Environmental code: <https://www.legifrance.gouv.fr/codes/id/LEGISCTA000022496606/>

¹⁹ <https://dcsmm.milieumarinfrance.fr/Le-Plan-d-Action-pour-le-Milieu-Marin>



Effects on water quality

Potential effects on water quality in France are regulated by the French Ministry of the Environment, the Water Agencies, and OFB under the European Union (EU) MSFD according to the key legislation detailed in Table 5.

Table 5. Key legislation related to effects on water quality.

Legislation	Details	Developer actions
The Water Framework Directive (WFD)	The WFD sets a general framework for water management in the EU Member States. It is applied at the river basin level in the Water Development and Management Schemes (SDAGE), a planning tool that helps to determine the developments and measures necessary to prevent the deterioration of water bodies and to ensure the preservation of the status of water and aquatic environments.	Ensure that environmental monitoring of projects is based on the same protocols as the MSFD and the WFD.
Water law	The water law, completed by the law on water and aquatic environments of 2006, and codified in the French Code of the Environment, aims to guarantee sustainable management of water resources. With this objective, any project, installations, or activities that have an impact on water and aquatic environments must provide a declaration (for projects with a moderate environmental impact) or an authorization (for projects that may have a lasting impact on aquatic ecosystems). ²⁰	

Specific case study of OTEC – Seveso regulation

Ocean Thermal Energy Conversion (OTEC) has a specific status regarding the use of ammonia: a power plant where ammonia is located is to be considered as a Seveso site. The directive Seveso²¹ manages the risks related to industrial facilities. The total quantity of ammonia located in the power plant defines the level of ICPE (Installation Classée pour la Protection de l'Environnement) status and the associated risks to consider in the project. In France, there are currently no Seveso sites offshore.

Effects on social and economic systems

Potential effects on social and economic systems in France are regulated by the French Ministry of the Environment following the key legislation detailed in Table 6. Several key legislations mentioned below help to regulate the effects on social and economic systems, including the WFD and MSFD guidelines and tools implemented in the context of MSP, and will need to be followed by MRE developers.

²⁰ Law n°92-3 of 3 January, 1992 on water: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000000173995>; Loi n°2006-1772 du 30 Décembre 2006 sur l'eau et les milieux aquatiques: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000649171/>

²¹ Directive 2012/18/UE of 4 July, 2012: <https://seveso3.din.developpement-durable.gouv.fr/>; <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000026306231>

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

Legislation	Details
The Regional plan for planning, sustainable development, and territorial equality	This is a regional planning tool that establishes a set of objectives covering various issues: territorial balance and equality, air pollution, protection and restoration of biodiversity, waste prevention and management, etc. In coastal areas, it can specify the methods for reconciling environmental, heritage, and landscape protection objectives. ²²
The Coastline law	The Coastline law was adopted in 1986 to govern the development, protection, and enhancement of the coastline. It aims to preserve natural areas, sites, landscapes, and the ecological balance of the coastline. The law also provides a framework for developing economic activities linked to the proximity of water. It thus applies to municipalities bordering the seas and oceans and to their economic development projects including MRE projects.
Local Urban Plan (PLU; Plan Local d'Urbanisme)	Main planification document of urbanism at city/town scale. PLUs are governed by the French Town Planning Code (Code de l'Urbanisme) and gives delimitations of different areas with description of compatible activities/buildings. Compatibility depends on areas, which need to be studied at local scale, especially for electrical sub-stations.
The Heritage Code	The Heritage Code was adopted in two stages (2004 and 2011) for the protection of movable heritage and archaeological sites. It sets a framework to provide the best possible conservation and to limit the erosion of this fragile and non-renewable heritage. The Regional Archaeological Service (SRA) and the Department of Underwater Archaeological Research (DRASSM) ensure compliance with the heritage code in the planning and implementation of MREs.
The Maritime Cultural Heritage Law	The 1989 law on Maritime Cultural Heritage defines the types of maritime properties or assets, which, being of prehistoric, archaeological, or historical interest, may be protected from MRE projects. The concerned heritage may be located in the public maritime domain or on the seabed in the contiguous zone.

Additional Information and Relevance for MRE Consenting

Regulatory Guidance

When consenting MRE projects, consenting authorities and applicants must act in accordance with or have regard for The Environmental Code. The Code of the Environment, adopted in 2000, governs the protection of territories whose landscape interest is established by their unity and coherence, or by their richness in terms of heritage, lifestyles and habitat, activities and industrial or artisan traditions. It prescribes the adoption of a directive for the protection and enhancement of landscapes in order to preserve the characteristic elements of the landscapes concerned.

²² Regional plan for planning, sustainable development and territorial equality: <https://www.cohesion-territoires.gouv.fr/sraddet-un-schema-strategique-prescriptif-et-integrateur-pour-les-regions>



Marine Spatial Planning

Maritime Spatial Planning (MSP) is governed by the Maritime Spatial Planning Framework Directive²³, which sets the regulatory framework common to all EU Member States. In order to achieve the objectives of the directive, France has adopted a National Strategy for the Sea and the Coast²⁴, the guidelines and objectives of which are set out in the Strategic Coastal Documents.²⁵

The National Strategy for the Sea and the Coast provides a reference framework for public policies relating to the sea and coastlines. It is managed and implemented by the State (Minister for the Sea and the Environment) to support the energy transition, promote the development of a sustainable blue economy, preserve the good ecological status of the marine environment, and ensure France's influence as a maritime power.

The Strategic Coastal Documents is a planning tool dedicated to the MSP and drawn up at the level of the four French maritime areas (Channel North Sea, North Atlantic Channel West, South Atlantic, and Western Mediterranean). It is implemented by the regional state authorities (maritime Prefects and regional Prefects) and drawn up by the state in consultation with local stakeholders.

The areas suitable for MRE development are identified for each coastline within these Strategic Coastal Documents. These areas are defined according to different criteria: technical and economic feasibility, environmental integration, and socio-economic integration.

Multiannual Energy Programme

The Multiannual Energy Programme²⁶ is an energy policy management tool, created following the Energy Transition Law for Green Growth. It describes the orientations and priorities for action and manages the different forms of energy in order to achieve the objectives of the energy policy in France, including those of the wind energy sector. In 2020, the energy targets for offshore wind were set at 2.4 GW in 2023 and up to 6.2 GW in 2028. There are no energy targets for MRE at present.

Relevant industry stakeholders and networks

- **France Energies Marines²⁷** is the Institute for Energy Transition dedicated to offshore renewable energy (ORE). Through collaborative R&D projects, its mission is to provide, enhance, and foster the scientific and technical environment needed to overcome barriers to the development of ORE technologies, while ensuring optimal environmental integration.
- **The Maritime Council:** Governed by Article L219-6-12 of the Environment Code, the Maritime Council is a consultation instance set up for each of the four maritime areas of the French coastline. Chaired by the maritime and regional Prefects, it brings together members from five different stakeholder groups (State and public establishments, local authorities, maritime professionals, maritime and coastal companies, users, and environmental protection

²³ Directive 2014/89/EU of the European parliament and of the council of 23 July 2014 establishing a framework for maritime spatial planning: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0089&rid=1>

²⁴ National Strategy for the Sea and the Coast: <https://www.merlittoral2030.gouv.fr/>

²⁵ Strategic Coastal Documents:

<https://cerema.maps.arcgis.com/apps/webappviewer/index.html?id=3a1cc8e6d52c4c4cb85fc8fe404f5f06>

²⁶ Multiannual Energy Programme: <https://www.ecologie.gouv.fr/programmations-pluriannuelles-lenergie-ppe>

²⁷ <https://www.france-energies-marines.org/en/the-institute/>



associations) to guide maritime policy and issue recommendations on all projects relating to the sea and coastline (development, use, protection, etc.).²⁸

- **The National Council for the Sea and the Coastal Areas**²⁹ is the body for dialogue and strategic reflection on policies relating to the sea and the coastal areas. It is made up of 6 stakeholder groups (elected representatives, public institutions, companies, trade unions, associations, qualified personalities) and ensures the monitoring and implementation of the National Strategy for the Sea and the Coast.
- **Réseau de Transport d'Électricité (RTE)** - Electricity transmission network: RTE operates, maintains, and develops the high and very high voltage electrical grid. RTE transports electricity between electricity producers (French and European) and consumers, whether they are electricity distributors or industries directly connected to the transmission network. In accordance with the provisions of the law, RTE is also responsible for drawing up a ten-year development plan for the electrical grid in France and with cross-border European countries.
- **The Union of Renewable Energies**³⁰: Represents all the renewable energy sectors and works towards their development in France for the benefit of the community. It participates in discussions to engage France in its energy transition process by participating in the evolution of the legislative, regulatory, and economic framework for renewable energies.
- **OFB**: The OFB was created by law on 1st January 2020 (Law no. 2019-773 of 24 July 2019) to protect and restore biodiversity in Metropolitan France and its Overseas Territories. It is a public institution under the authority of the ministries responsible for Ecology and Agriculture & Food. OFB plays 5 complementary roles: 1) sharing knowledge, research, and expertise about species, habitats, and their uses; 2) environmental and wildlife health policing; 3) supporting the implementation of public policies; 4) assisting and supporting management of protected natural area; and 5) supporting stakeholders and mobilizing civil society.

²⁸ <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000024642641/>

²⁹ National Council for the Sea and the Coastal Areas is the body: <https://www.mer.gouv.fr/conseil-national-de-la-mer-et-des-littoraux-cnml>

³⁰ Union of renewable energies: <https://www.syndicat-energies-renouvelables.fr/>