

U.S. DEPARTMENT OF ENERGY
OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY
NEPA DETERMINATION



RECIPIENT: Ocean Renewable Power Company, Inc.

STATE: ME

PROJECT TITLE: American Tidal Energy Project (ATEP)

Notice of Funding Opportunity Number
DE-FOA-0002845

Procurement Instrument Number
DE-EE0011265

NEPA Control Number
GFO-011265-002

CID Number
GO11265

Based on my review of the information concerning the proposed action, as NEPA Compliance Officer (authorized under DOE Policy 451.1), I have made the following determination:

CX, EA, EIS APPENDIX AND NUMBER:

Description:

**B3.16
Research
activities in
aquatic
environments**

Small-scale, temporary surveying, site characterization, and research activities in aquatic environments, limited to: (a) Acquisition of rights-of-way, easements, and temporary use permits; (b) Installation, operation, and removal of passive scientific measurement devices, including, but not limited to, antennae, tide gauges, flow testing equipment for existing wells, weighted hydrophones, salinity measurement devices, and water quality measurement devices; (c) Natural resource inventories, data and sample collection, environmental monitoring, and basic and applied research, excluding (1) large-scale vibratory coring techniques and (2) seismic activities other than passive techniques; and (d) Surveying and mapping. These activities would be conducted in accordance with, where applicable, an approved spill prevention, control, and response plan and would incorporate appropriate control technologies and best management practices. None of the activities listed above would occur within the boundary of an established marine sanctuary or wildlife refuge, a governmentally proposed marine sanctuary or wildlife refuge, or a governmentally recognized area of high biological sensitivity, unless authorized by the agency responsible for such refuge, sanctuary, or area (or after consultation with the responsible agency, if no authorization is required). If the proposed activities would occur outside such refuge, sanctuary, or area and if the activities would have the potential to cause impacts within such refuge, sanctuary, or area, then the responsible agency shall be consulted in order to determine whether authorization is required and whether such activities would have the potential to cause significant impacts on such refuge, sanctuary, or area. Areas of high biological sensitivity include, but are not limited to, areas of known ecological importance, whale and marine mammal mating and calving/pupping areas, and fish and invertebrate spawning and nursery areas recognized as being limited or unique and vulnerable to perturbation; these areas can occur in bays, estuaries, near shore, and far offshore, and may vary seasonally. No permanent facilities or devices would be constructed or installed. Covered actions do not include drilling of resource exploration or extraction wells.

Rationale for determination:

The U.S. Department of Energy (DOE) is proposing to provide funding to the Ocean Renewable Power Company (ORPC) to study/develop a pilot demonstration site and install 1-5 megawatts (MW) of tidal capacity that meets current local, state, and federal regulatory requirements in Cook Inlet waters, off East Foreland, Kenai Peninsula Borough, Alaska.

The proposed project was selected under Topic Area 1 (TA1) of DOE's U.S. Tidal Energy Advancement Funding Opportunity Announcement (FOA) (DE-FOA-0002845), Tidal and/or Current Site Development. During the first phase, the awardees completed preliminary tidal site research and development (R&D).

The current NEPA review is for many of the tasks included in Budget Period 2/Phase 2 (BP2/P2). These tasks include passive site characterization, engineering study and design, stakeholder engagement, agency consultation, project management, and risk mitigation. With the exception of task 1.8.0, project activities under this review would be limited to intellectual, academic, or analytical activities that would occur at ORPC offices in Anchorage, AK and Portland, ME. Technical assistance from either the National Laboratory of the Rockies in Golden, CO or the Pacific Northwest National Laboratory in Richland, WA is also expected to occur during BP2/P2.

Task 1.8.0 would include passive visual marine mammal surveys, which would be conducted at Agate Public Beach in Nikiski, AK. The surveys would be conducted by a certified biologist using standard binoculars and spotting scopes to detect marine mammals at the surface in Cook Inlet.

Project efforts within BP2/P2 that are not included in the current NEPA review include in-water field assessments, including those pertaining to ice flow, geology and hydrography, water velocity, geomorphology, shipping routes and commercial vessel activity, sensitive habitat areas, fisheries, and marine mammal acoustic (or similar sensing

technology) surveys. Land-based archaeological surveys are also not included in the current review. Additional NEPA review would be required once detailed information concerning these surveys becomes known.

DOE does not anticipate any impacts to resources of concern due to the proposed project activities.

Any work proposed to be conducted at a federal facility may be subject to additional NEPA review by the cognizant federal official and must meet the applicable health and safety requirements of the facility.

NEPA PROVISION

DOE has made a conditional NEPA determination.

The NEPA Determination applies to the following Topic Areas, Budget Periods, and/or tasks:

- Task 0.0.0
 - o Subtask 0.1.0
 - o Subtask 0.2.0
- Task 1.0.0
 - o Subtask 1.1.0
 - o Subtask 1.8.0
- Task 2.0.0
 - o Subtask 2.1.0
 - o Subtask 2.2.0
 - o Subtask 2.3.0
- Task 3.0.0
 - o Subtask 3.1.0
 - o Subtask 3.2.0
 - o Subtask 3.3.0
- Task 4.0.0

The NEPA Determination does not apply to the following Topic Area, Budget Periods, and/or tasks:

- o Subtask 1.2.0
- o Subtask 1.3.0
- o Subtask 1.4.0
- o Subtask 1.5.0
- o Subtask 1.6.0
- o Subtask 1.7.0
- o Subtask 1.9.0
- o Subtask 1.10.0
- o Subtask 1.11.0

Notes:

Water Power Technologies Office (H2O)
NEPA review completed by Chris Akios, 7/20/2026

FOR CATEGORICAL EXCLUSION DETERMINATIONS

The proposal fits within a class of actions that is listed in Appendix B to 10 CFR Part 1021 or Appendix B and C of DOE's NEPA Implementing Procedures (June 30, 2025). To fit within the classes of actions listed in Appendix B to 10CFR Part 1021, or Appendix B of DOE's NEPA Implementing Procedures, a proposal must satisfy the conditions that are integral elements of the classes of actions in Appendix B of both 10 CFR Part 1021 and DOE's NEPA Implementing Procedures.

There are no extraordinary circumstances related to the proposed action that may affect the significance of the environmental effects of the proposal.

The proposed action has not been segmented to meet the definition of a categorical exclusion.

The proposed action is categorically excluded from further NEPA review.

SIGNATURE OF THIS MEMORANDUM CONSTITUTES A RECORD OF THIS DECISION.

NEPA Compliance Officer Signature: _____

 Electronically
Signed By: **Kristin Kerwin**

NEPA Compliance Officer

Date: **7/20/2026**

FIELD OFFICE MANAGER DETERMINATION

- ☒ Field Office Manager review not required
☐ Field Office Manager review required

BASED ON MY REVIEW I CONCUR WITH THE DETERMINATION OF THE NCO :

Field Office Manager's Signature: _____

Field Office Manager

Date: _____