

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



RECIPIENT: Calwave Power Technologies

STATE: CA

PROJECT TITLE : Open Water Demonstration

Funding Opportunity Announcement Number	Procurement Instrument Number	NEPA Control Number	CID Number
DE-FOA-0001663	DE-EE0008097	GFO-0008097-005	GO8097

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:

B5.25 Small-scale renewable energy research and development and pilot projects in aquatic environments Small-scale renewable energy research and development projects and small-scale pilot projects located in aquatic environments. Activities would be in accordance with, where applicable, an approved spill prevention, control, and response plan, and would incorporate appropriate control technologies and best management practices. Covered actions would not occur (1) within areas of hazardous natural bottom conditions or (2) 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, use of large-scale vibratory coring techniques, or seismic activities other than passive techniques.

Rationale for determination:

The U.S. Department of Energy (DOE) is proposing to provide funding to CalWave Power Technologies, Inc. (CalWave) to design, fabricate, and test a 1:6 scale wave energy converter (WEC). Tests would include lab and open water testing.

DOE previously completed four NEPA Determinations (NDs) (GFO-0008097-001, A9/B3.6, 08/16/2017; GFO-0008097-002, A9/B3.6, 11/09/2017; GFO-0008097-003, A9/B5.25, 08/01/2019; GFO-0008097-004, A9/B3.6, 03/11/2020), which altogether applied to all award activities. Since the most recent ND, CalWave has proposed changes to award activities which require additional NEPA review.

CalWave originally proposed to recover all deployed components at the end of their proposed open water WEC deployment, including the anchors and umbilical cable. CalWave now proposes to leave the anchors and cable deployed instead of recovering them. CalWave's proposal is in response to the University of California's Scripps Institution of Oceanography (SIO) expressed interest to assume ownership and responsibility of the anchors and cable for continued use (separate from this award). Such a transfer of the anchors and cable would not be considered part of this award or other federal action of any agency. CalWave would follow disposition instructions provided by DOE prior to any transfer of equipment ownership or use.

DOE reinitiated and completed informal consultation with the National Marine Fisheries Service (NMFS) per Section 7 of the Endangered Species Act (ESA) to determine potential impacts on federally listed species and critical habitats. DOE received a letter of concurrence (LOC) from NMFS (08/26/2022) stating their concurrence that the award activities would not likely adversely affect listed species or critical habitats. In the LOC, NMFS stated their conclusion that the proposed action would not adversely affect Essential Fish Habitats.

DOE has considered potential impacts on resources, including those of an ecological, historical, cultural, and socioeconomic nature. DOE does not anticipate adverse impacts on these resources.

NEPA PROVISION

DOE has made a final NEPA determination.

Notes:

Water Power Technologies Office (WPTO)
NEPA review completed by Dan Cahill, 09/07/2022.

FOR CATEGORICAL EXCLUSION DETERMINATIONS

The proposed action (or the part of the proposal defined in the Rationale above) fits within a class of actions that is listed in Appendix A or B to 10 CFR Part 1021, Subpart D. To fit within the classes of actions listed in 10 CFR Part 1021, Subpart D, Appendix B, a proposal must be one that would not: (1) threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of DOE or Executive Orders; (2) require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities; (3) disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases; (4) have the potential to cause significant impacts on environmentally sensitive resources, including, but not limited to, those listed in paragraph B(4) of 10 CFR Part 1021, Subpart D, Appendix B; (5) involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those listed in paragraph B(5) of 10 CFR Part 1021, Subpart D, Appendix B.

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. This proposal is not connected to other actions with potentially significant impacts (40 CFR 1508.25(a)(1)), is not related to other actions with individually insignificant but cumulatively significant impacts (40 CFR 1508.27(b)(7)), and is not precluded by 40 CFR 1506.1 or 10 CFR 1021.211 concerning limitations on actions during preparation of an environmental impact statement.

The proposed action is categorically excluded from further NEPA review.

SIGNATURE OF THIS MEMORANDUM CONSTITUTES A RECORD OF THIS DECISION.

NEPA Compliance Officer Signature: _____



Casey Strickland

NEPA Compliance Officer

Date: 9/8/2022

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: _____