

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



**RECIPIENT:** Oscilla Power, Inc.

**STATE:** WA

**PROJECT TITLE :** Performance Optimization and System Demonstration of a Multi-Mode Point Absorber

<b>Funding Opportunity Announcement Number</b>	<b>Procurement Instrument Number</b>	<b>NEPA Control Number</b>	<b>CID Number</b>
DE-FOA-0001837	DE-EE0008625	GFO-0008625-003	GO8625

**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:

**A9 Information gathering, analysis, and dissemination**

Information gathering (including, but not limited to, literature surveys, inventories, site visits, and audits), data analysis (including, but not limited to, computer modeling), document preparation (including, but not limited to, conceptual design, feasibility studies, and analytical energy supply and demand studies), and information dissemination (including, but not limited to, document publication and distribution, and classroom training and informational programs), but not including site characterization or environmental monitoring. (See also B3.1 of appendix B to this subpart.)

**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 Oscilla Power, Inc. (OPI) to design, fabricate, and test a prototype wave energy converter (WEC). The WEC would be tested in Penobscot Bay in proximity of Castine, ME. DOE previously completed two NEPA determinations (NDs) (GFO-0008625-001, A9/B3.6, 05/17/2019;

GFO-0008625-002, A9/B3.6, 07/22/2022), which applied to Tasks 1 - 11. This ND (GFO-0008625-003) applies to the remaining tasks (Tasks 12 – 15) of this award.

Award activities would include open water transportation, installation, operation (i.e., testing), and decommissioning of a small-scale prototype WEC. The WEC would be transported from Castine to the test site, installed using existing anchors previously installed by the University of Maine, and tested for approximately three months before decommissioning. The WEC would be monitored on a regular basis during the testing period. Supporting equipment for data collection, including an acoustic doppler current profiler (ADCP) and metocean (i.e., meteorological and oceanographic) buoy, would be deployed in proximity of the WEC during the testing period. Additional activities would include post-test analyses of WEC performance and wear resulting from deployment.

Award activities would involve typical hazards associated with an open water deployment of a WEC, including handling and use of hazardous materials, operation of potentially hazardous equipment and vehicles, and site-specific environmental hazards. Existing health, safety, and environmental policies and procedures would be followed to mitigate hazards to acceptable levels. Mitigated hazards would pose negligible risks to the public and environment. All activities would comply with existing federal, state, and local laws and regulations.

DOE completed informal consultation with the National Marine Fisheries Service (NMFS) per Section 7 of the Endangered Species Act (ESA). DOE received a letter of concurrence (LOC) from NMFS (10/12/2023) stating their concurrence that the award activities would not likely adversely affect listed species or critical habitats. DOE has determined the proposed deployment would have no effect on federally listed species under U.S. Fish and Wildlife Service jurisdiction, but this determination is contingent on the seasonal absence of roseate terns, which would be absent from action area from approximately the end of August to mid-May. The proposed deployment activities would occur during this period of time.

DOE has considered the scale, duration, and nature of proposed activities to determine potential impacts on resources, including those of an ecological, historical, cultural, and socioeconomic nature. DOE does not anticipate impacts on these resources which would be considered significant or require DOE to consult with other agencies or stakeholders aside from consultations that have already been mentioned.

## **NEPA PROVISION**

DOE has made a final NEPA determination.

Notes:

Water Power Technologies Office (WPTO)  
NEPA review completed by Dan Cahill, 10/17/2023.

## **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: \_\_\_\_\_

 Electronically  
Signed By: **Andrew Montano**  
NEPA Compliance Officer

Date: 10/17/2023

**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: \_\_\_\_\_