

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



RECIPIENT: Littoral Power Systems

STATE: MA

PROJECT TITLE : Combining machine learning and predictive modeling with a novel lightweight multi-axis point absorber system, toward a cost-disruptive WEC approach

Funding Opportunity Announcement Number	Procurement Instrument Number	NEPA Control Number	CID Number
DE-FOA-0002415	DE-EE0009957	GFO-0009957-002	G09957

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.)

**B3.6 Small-scale research and development, laboratory operations, and pilot projects**

Siting, construction, modification, operation, and decommissioning of facilities for smallscale research and development projects; conventional laboratory operations (such as preparation of chemical standards and sample analysis); and small-scale pilot projects (generally less than 2 years) frequently conducted to verify a concept before demonstration actions, provided that construction or modification would be within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible). Not included in this category are demonstration actions, meaning actions that are undertaken at a scale to show whether a technology would be viable on a larger scale and suitable for commercial deployment.

**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 Littoral Power Systems, Inc. (LPS) to design, fabricate, and test a wave energy converter (WEC) with a control system that would use artificial intelligence (AI) technology. Testing activities would include wave tank testing of a small-scale WEC (Device A) and open water testing of a larger scale WEC (Device B) at the PacWave South (PWS) test site off the coast of Oregon. Deployment of spotter buoys would also occur at PWS.

The proposed project is divided into two Budget Periods (BPs) with a Go/No-Go decision point in between the BPs. DOE previously completed a NEPA review for Tasks 1-6 (GFO-0009957-001 CX A9, B3.6, B3.16, 12/20/2022). Since

that time, Subtask 2.2.3 has been added to BP1 and Task 1B has been renamed Task 13, with minor scope changes made.

This NEPA Determination (ND) does not apply to BP2 Tasks 7 – 11. Final details of the WEC (Device B) to be deployed at PWS are contingent on the outcomes of earlier award activities (Tasks 0 – 6 and 13). DOE would complete the NEPA review for Tasks 7 – 11 when sufficient information is available to conduct a meaningful review.

Subtask 2.2.3 would consist of preliminary tank testing of Device A at the University of New Hampshire Chase Ocean Engineering Lab (Durham, NH). The tank testing would occur prior to wave tank testing activities at the University of Maine Alford W2 Ocean Engineering Lab (Orono, ME), which were reviewed in the ND signed on 12/20/2022.

Task 13 activities would include the procurement and deployment of six spotter buoys from Sofar Ocean (San Francisco, CA) for collection of wave activity data at PWS. Deployment would be conducted by LPS personnel or by a local vendor with appropriate capabilities and insurance. Assembly of the spotter buoy mooring lines would be completed by Marine Taxonomic Services (Albany, OR).

In 2019, Oregon State University (OSU) applied for a Federal Energy Regulatory Commission (FERC) license to construct and operate PWS. Before the license was issued, the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (FWS) completed reviews of the proposed activities that would occur at PWS and analyzed the potential impacts to federally listed species and critical habitats. After the FERC license was issued, DOE received concurrence from NMFS (05/04/2022) and FWS (06/21/2022) that their respective determinations from the FERC license review may be applied to future DOE-funded activities at PWS, provided that such activities are consistent with the description of activities originally reviewed. DOE has determined that those concurrences apply to the proposed activities of this award and additional consultation with NMFS and FWS is not required.

All facilities are preexisting, purpose-built facilities for the type of work to be conducted for this award. Facility modifications would not be required. Award activities would involve typical hazards associated with engineering laboratories, wave tank facilities, and open water activities, including the operation of potentially dangerous equipment, vehicle operations, electrical shock, and drowning. Existing corporate and university health, safety, and environmental policies and procedures would be followed at all facilities, including personnel training, proper personal protective equipment (PPE), engineering controls, monitoring, and internal assessments.

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.

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:

Subtask 2.2.3  
Task 13 (All Subtasks)

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

Tasks 7 – 11

Notes:

Water Power Technologies Office (WPTO)  
NEPA review completed by Melissa Parker, 05/15/24

## 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.

A portion of the proposed action is categorically excluded from further NEPA review. The NEPA Provision identifies Topic Areas, Budget Periods, tasks, and/or subtasks that are subject to additional NEPA review.

**SIGNATURE OF THIS MEMORANDUM CONSTITUTES A RECORD OF THIS DECISION.**

NEPA Compliance Officer Signature:  \_\_\_\_\_ Date: 5/16/2024  
NEPA Compliance Officer

**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: \_\_\_\_\_ Date: \_\_\_\_\_  
Field Office Manager