

BOEM Tribal Nation and Indigenous Peoples Engagement Strategy

Vision and Commitment

The Bureau of Ocean Energy Management (BOEM) seeks to develop lasting relationships with Tribal Nations¹ and Indigenous Peoples,² including the Native Hawaiian Community, based on mutual trust and respect. In doing so, BOEM will honor Tribal sovereignty, self-governance, and Federal trust and treaty responsibilities to fully implement the applicable laws and policies of the United States.

BOEM's actions to achieve this vision will include regular, meaningful, and robust communication, relationship-building, and early and informed consultation on policies and issues related to BOEM activities with implications for Tribal Nations, the Native Hawaiian Community, and Indigenous Peoples, seeking consensus in accordance with the "Consensus-Seeking Model."³ BOEM will also engage in other collaborative activities supportive of the interests of Tribal Nations, Native Hawaiian Organizations, and Indigenous Peoples. Throughout all stages of these important efforts, BOEM will acknowledge and appropriately include Indigenous Traditional Ecological Knowledge and promote the co-production of knowledge. In addition to upholding its government-to-government and trust responsibilities to Federally recognized Tribes, BOEM will engage and seek cooperation with Indigenous Peoples and Alaska Native Claims Settlement Act (ANCSA) Corporations.

Background

Many Tribal Nation members and Indigenous Peoples live near and use areas where BOEM-authorized activities are proposed and conducted. Their ancestors occupied vast areas of land, and many depended on nearby ocean resources, before and after sea level rise following the last Ice Age. Policies such as the Indian Removal Act of 1830 resulted in mass removal of Indigenous Peoples from their lands with long-lasting impacts on their access to ancestral lands and their relationships with the Federal government.

BOEM's authority for Tribal Nation and Indigenous Peoples engagement stems from numerous ratified treaties and agreements between the United States and Federally recognized Tribes; the trust obligation owed by the United States to Federally recognized Indian Tribes and the Native Hawaiian Community; and applicable statutes, executive orders, Presidential memorandums, Department of the Interior (DOI) policies, and relevant case law. Specific examples supporting BOEM's authority for engagement with Tribal Nations and Indigenous Peoples – many of which are described in a November 2022 [report](#) of the DOI Solicitor's Office on Tribal stewardship and co-stewardship – include, but are not limited to, the following:

¹ "Tribal Nation" or "Tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges as a Federally recognized Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. § 5130.

² "Indigenous Peoples" refers to people of Native American, Alaska Native, and Native Hawaiian descent, and others whose ancestors have occupied what is now known as the United States and its territories since time immemorial, including members of Tribal Nations. See DOI 301 DM 7.4.

³ See DOI 512 DM 4.4 and 512 DM 4, Figure 1.

- Executive Order 13175 on Consultation and Coordination with Indian Tribal Governments, issued by President Clinton on November 6, 2000, and reaffirmed by a White House Memorandum issued on January 26, 2021
- Joint Secretarial Order No. 3043 on fulfilling trust responsibilities to Indian Tribes in the stewardship of Federal lands and waters by protecting the treaty, religious, subsistence, and cultural interests of Federally recognized Tribes, including the Native Hawaiian community, issued by Secretary of the Interior Deb Haaland and Secretary of Agriculture Thomas Vilsack on November 15, 2021, and subsequently joined by Secretary of Commerce Gina Raimondo on November 30, 2022
- Executive Office of the President Memorandum on Indigenous Traditional Ecological Knowledge and Federal Decision Making, issued by the White House Office of Science and Technology Policy and the Council on Environmental Quality on November 15, 2021
- Department of the Interior Departmental Manual Part 502 Chapters 1-2 (DOI 502 DM 1-2) on Collaborative and Cooperative Stewardship with Tribes and the Native Hawaiian Community, issued on November 30, 2022
- Department of the Interior Departmental Manual Part 512 Chapter 4 (DOI 512 DM 4) on Department of the Interior Policy on Consultation with Indian Tribes, issued on November 30, 2022
- An Executive Order on Revitalizing Our Nation’s Commitment to Environmental Justice for All, which includes individuals who are Indigenous, Native American, and Native Hawaiian and Tribal Nations, issued on April 21, 2023
- Department of the Interior Departmental Manual Part 301 Chapter 7 (DOI 301 DM 7) on Departmental Responsibilities for Consideration and Inclusion of Indigenous Knowledge in Departmental Actions and Scientific Research, issued on December 5, 2023
- The National Environmental Policy Act (NEPA) (42 U.S.C. 4321)
- The National Historic Preservation Act (16 U.S.C. 470)

The priorities and policies as detailed by the Executive and Secretarial Orders, memoranda, and guidance listed above inform BOEM’s approach to outreach, engagement, and consultation with Tribal Nations, Indigenous Peoples, and ANSCA Corporations. BOEM first developed Tribal Consultation Guidance in 2014 that established procedures for organizing internal review and decision-making for consultation with Tribes and ANSCA corporations and subsequently updated the Guidance in 2024.

Goals

BOEM’s fundamental goal for Tribal Nation and Indigenous Peoples engagement is to honor its trust responsibilities, respect the sovereignty of Tribal Nations, and effectively implement the policies for consultation and other engagement cited above. This generally means doing the following:

1. Strengthen nation-to-nation relationships through early, regular, meaningful, and robust outreach, engagement, and consultation
2. Establish reciprocal communication and accountability practices

3. Improve BOEM's understanding of Tribal Nations' and Indigenous Peoples' decision-making processes and procedures (and vice versa), and drive coordination among other agencies and developers
4. Increase the capacity and consider the capacity constraints of Tribal Nations and Indigenous Peoples for consultations and associated travel expenses, environmental reviews, including dedicated leadership or staff time for Tribal Nations and Indigenous Peoples, and other engagement activities
5. Make consistent and meaningful efforts to respectfully work with Tribal Nations and Indigenous Peoples to appropriately include Indigenous Traditional Ecological Knowledge into decision-making processes and collaborative study proposals
6. Train and educate staff on Tribal trust and treaty relationships, relationships with Indigenous Peoples, cultural competency, and consultation policy, purpose, history, and best practices when engaging with Tribal Nations and Indigenous Peoples
7. Support the needs and priorities of Tribal Nations and Indigenous Peoples when practicable and within BOEM's authority to strengthen relationships, improve consultation processes, drive benefits, and address potential impacts of BOEM-authorized activities

Definitions

Tribe: Any American Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

ANCSA Corporation: Any Alaska Native village corporation, group corporation, urban corporation, former reserve corporation, or regional corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq.

Native Hawaiian: Any individual who is a citizen of the United States and a descendent of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawai'i, as evidenced by genealogical records, Kūpuna (elders) or Kama'āina (long-term community residents) verification, or certified birth records, 20 U.S.C. 7517: Definitions.

Native Hawaiian Organization: Any organization that serves and represents the interests of Native Hawaiians, has a primary and stated purpose the provision of service to Native Hawaiians, has expertise in Native Hawaiian affairs, and has Native Hawaiians in substantive and policymaking positions within the organization, including, but not limited to, Native Hawaiian organizations registered with the Department of the Interior's Office of Native Hawaiian Relations (ONHR) the Office of Hawaiian Affairs.

Indigenous Peoples: Refers to people of Native American, Alaska Native, and Native Hawaiian descent, and others whose ancestors have occupied what is now known as the United States and its territories since time immemorial, including members of Tribal Nations and the Native Hawaiian Community, DOI 301 DM 7.4.

Actions with Tribal implications or ANCSA Corporation implications: Consistent with the Department of the Interior Policy on Consultation with Indian Tribes and the Department of the Interior Policy on Consultation with ANCSA Corporations, BOEM defines these terms as “Any Departmental regulation, rulemaking, policy, guidance, legislative proposal, grant funding formula changes, or operational activity that may have substantial direct effects on an [Indian Tribe or ANCSA Corporation].”

BOEM actions that may fall within one or both of these categories include, but are not limited to, a rulemaking, development of a Wind Energy Area (WEA), notice to lessees (NTL), a lease sale, approval of an oil and gas exploration or development plan, a renewable energy plan, a permit for a seismic airgun survey, establishment of a right-of-way or a right-of-use and easement, a non-energy mineral lease or agreement, or permitting or scoping of proposed projects in relation to any of the previously mentioned activities. BOEM cannot delegate its responsibility for determining tribal implications to a Tribe, ANCSA Corporation, or other agency. However, BOEM will give close and respectful consideration to any opinions a Tribe, ANCSA corporation or NHO expresses about whether an action has Tribal or NHC implications and the reasons given in support (BOEM Tribal Consultation Guidance, 2018). Furthermore, the recent November 30, 2022, Presidential memorandum states:

“If there is a reasonable basis to believe that a policy may have Tribal implications, consistent with the definition in Executive Order 13175, the agency shall follow the applicable requirements for consultation. Agencies may still engage in Tribal consultation even if they determine that a policy will not have Tribal implications, and should consider doing so if they determine that a policy is of interest to a Tribe or Tribes.”

In addition, the recent November 30, 2022, DOI consultation procedures require BOEM and other DOI bureaus and offices to assume that all actions with resource impacts may have Tribal implications and extend invitations for consultation on those actions, including actions with implications for Tribal traditional homelands of removed Tribes ([512 DM 5.4.A](#)). Therefore, in addition to invitations for consultation, Tribes are recognized as having specialized expertise, including traditional knowledge and cultural associations, and invited to participate in the NEPA environmental review process as cooperating Tribal governments.

Consultation: A deliberative process that aims to create effective collaboration and informed Federal decision-making. Consultation is built upon government-to-government and government to sovereign exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility. Communication will be open and transparent without compromising the rights of Indian Tribes or the government-to-government consultation process (BOEM Tribal Consultation Guidance, 2018). Communication with the Native Hawaiian Community will be open and transparent without compromising the government-to-sovereign consultation process.

Updates

The Tribal Working Group, comprised of BOEM staff designated to coordinate Tribal, Native Hawaiian Community and Indigenous Peoples outreach, engagement, and consultation activities across the Bureau, is responsible for reviewing and updating this Strategy document on an annual basis with assistance from the BOEM Directorate, Regional Directors, and Program Directors in order to track progress, address gaps and needs, and identify new opportunities; updates may occur more frequently if warranted.