

**UNITED STATES DEPARTMENT OF THE INTERIOR
Bureau of Ocean Energy Management
Office of Renewable Energy Programs**

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**Draft Guidelines and Instructions for Native American
Tribes Communications Plan Development Required by
BOEM New York Bight Leases (OCS-A 0537–0544) and
Carolina Long Bay Leases (OCS-A 0545–0546)**

Guidance Disclaimer

Except to the extent that the contents of this document derive from requirements established by statute, regulation, lease, contract, or other binding legal authority, the contents of this document do not have the force and effect of law and are not meant to bind the public or the agency in any way. This document is intended only to provide clarity to lessees regarding legal requirements, related agency policies, and technical issues.

Introduction to the Guidance

This guidance provides considerations for lessees of the New York Bight Leases (OCS-A 0537–0544) and Carolina Long Bay Leases (OCS-A 0545–0546) (Lessees) when satisfying the Native American Tribal Communications Plan (NATCP) lease stipulation that the Bureau of Ocean Energy Management (BOEM) has recently included in offshore renewables leases issued under Section 8(p) of Outer Continental Shelf (OCS) Lands Act. This document provides suggestions about the structure, content, and level of detail for meeting the requirements and intent of the stipulation. This guidance is informed by BOEM’s meetings with Tribal Representatives and input from Atlantic Region lessees.

Purpose of Native American Tribes Communication Plan

BOEM recognizes the unique legal relationship between the U.S. and federally recognized Tribes as set forth in the U.S. Constitution, treaties, statutes, Executive Orders, and court decisions. The U.S. acknowledges federally recognized Indian Tribes as sovereign nations; thus, interaction between the U.S. and these Tribes takes place on a government-to-government basis.

Legally, there is a distinction between federally recognized Indian Tribes (Tribes) and tribes who are not federally recognized. Federal recognition signifies that the U.S. Government acknowledges the political sovereignty and Indian identity of a Tribe, and from that recognition flows the obligation to conduct dealings with that Tribe’s leadership on a government-to-government basis. When BOEM speaks of government-to-government consultation, we are often referring to consultation between a designated Tribal Representative and a designated

representative of the federal government. In recognition of this special relationship, BOEM acknowledges the agency’s trust responsibilities with all Tribes and remains responsible for all government-to-government consultations. If a Tribe indicates to a Lessee that it prefers government-to-government consultations and states that the Tribe does not want to engage with the Lessee, the Lessee should notify BOEM.

The purpose of the NATCP is to ensure early and active information sharing, focus discussion on potential issues, and collaboratively identify solutions—all to promote the sustainable development of offshore wind energy projects by avoiding, minimizing, mitigating, and/or redressing any adverse effects. Effective communication also could identify partnership opportunities between the Tribes and Lessees, such as economic, educational, or workforce development.

Pursuant to the stipulations referenced in this guidance, Lessees also must submit to BOEM a Progress Report every six months until approval of a Construction and Operations Plan (COP). Progress Reports must include a brief narrative of the overall progress since the last Progress Report and a description of efforts to engage and consult with federally recognized Tribes. The reports will be made available to the public.

Together, the Progress Reports and the NATCP are intended to increase transparency and predictability about the Lessees’ intentions for engagement and to document actual engagement activities and efforts to avoid, minimize, and mitigate possible adverse effects brought to their attention.

Rationale and Approach for a Joint NATCP

As required in the leases,¹ Lessees must coordinate engagement activities with other Lessees “to the maximum extent practicable.” Recognizing that effective coordination among Lessees could reduce the burden on Tribes interested in staying informed about multiple projects within a region, BOEM recommends that Lessees work together to develop a joint NATCP. Lessees should draft a joint NATCP of the core elements of the communication plan for geographically adjacent lease areas.²

Although BOEM encourages agreement among Lessees on as many aspects of a plan as possible, individual Lessees may include in an appendix minimal information that is unique to their project or important to distinguish for reasons of competitive advantage. For instance, each Lessee would include in an appendix individualized information described in Section 3 (Project Background) below. Other aspects of the plan could, in most instances, be part of the joint NATCP adopted by all Lessees party to the joint plan, including Sections 4–9 referenced below. Superfluous material included in the appendices undermines the efficiencies gained of a joint plan.

¹ Stipulation 3.1.2.4 of Addendum C of the New York Bight Leases (OCS-A 0537–0544) and Stipulation 3.1.3 of Carolina Long Bay Leases (OCS-A 0545–0546)

² For example, one joint plan for New York Bight Leases and another joint plan for Carolina Long Bay Leases

Native American Tribes Communications Plan Content Guidance

Language taken from the lease appears in **bold** and in quotations.³ All other text is clarification or amplification of the lease stipulation language.

1. Cover Page

- Stakeholder Engagement Plan under Lease OCS – X ###
- Version [1.0]
- Prepared pursuant to [OCS lease number, date (TBD)]
- Prepared by: Lessee name and contact
- Today's date
- Web address of where the NATCP is publicly posted

2. Table of Contents, List of Figures, and List of Tables

2.1. List of Abbreviations

3. Project Background

3.1. Lessee Information

As background information, Lessees should provide information about the project and lease area. This section should also include any past and current public project names associated with the lease area and, if available, proposed project size and any offtake agreements in place with states.

The Lessee information could include the following:

- Lessee(s)'s incorporated name(s)
- Organizational affiliation/structure (e.g., parent companies)
- Lease number
- Project name

3.2. Lease Description

The Lessee should consistently refer to the lease area by its renewable energy lease number and legal company name currently on file with BOEM, i.e., OCS-A 0#### - legal name of Lessee. The Lessee is encouraged to provide a written and visual (map with a nautical chart background) description of the lease area identified by the lease number, and links to any additional online information describing the lease. These descriptions could include a description of the lease in relation to other leases, major ocean features (ledges, holes, diving area, shelf edge, etc.), and land features (ports, harbors, land masses). This section of the plan should be updated as project information evolves—for instance, by including information such as possible array locations within the lease area or potential cable routes to bring power to shore.

³ BOEM New York Bight Leases (OCS-A 0537–0544) and Carolina Long Bay Leases (OCS-A 0545–0546).

3.3. Lessee Contacts

“The NATCP must include the contact information for an individual retained by the Lessee as its primary point of contact with federally recognized Tribes (i.e., a Tribal Liaison).”

This section should include the following:

- Name, title, phone number, and email address of the primary and secondary points of contact
- Description of roles and duties of any additional positions or roles for communication with Tribes, if applicable

BOEM recommends that the points of contact have knowledge of the Tribes’ ancestral ties to the lease area and have experience consulting with Tribes on large infrastructure projects.

4. Lessee Communications and Engagement Goals and Principles

“The NATCP should include detailed information and protocols for regular engagement with federally recognized Tribes.”

“Protocols,” as referred to in the stipulation, generally means not only the methods of engagement, but also the goals and best practices that will govern communication and engagement efforts. Examples of goals and best practices are provided in Appendix B.

5. Identification of Federally Recognized Tribes

“If a federally recognized Tribe does not wish to participate in the development of the NATCP, the Lessee is no longer required to include them in NATCP communications. If a Tribe does not respond to outreach from the Lessee, the Lessee will continue to invite the Tribe to participate in NATCP engagement opportunities until the Tribe provides a written response to the Lessee or Lessor.”

The NATCP should list the federally recognized Tribes with cultural and/or historical ties to the lease area, including but not limited to federally recognized Tribes identified in the lease.

If the Lessee receives from a Tribe that they do not wish to participate in the development of the NATCP, the Lessee should notify BOEM. BOEM will notify other relevant Lessees of any requests from Tribes to not participate in the development of an NATCP.

“The Lessee should request that the Tribe designate a Tribal Representative from each Tribe to serve as the Tribe’s primary point of contact for communicating with the Lessee.”

If a Tribe elects to designate a Tribal Representative to work with the Lessee, include the contact information in the list of federally recognized Tribes.

6. Communication and Engagement Strategies and Tools

“The NATCP should include detailed information and protocols for regular engagement with federally recognized Tribes including, but not limited to, the types of engagement activities (e.g., one-on-one meetings, group meetings, open houses, open information sharing meetings, etc.); the frequency of proposed engagements/meetings (e.g., monthly, quarterly, bi-annually, annually, etc.); meeting locations and/or virtual platforms; and contact information (e.g., telephone numbers, email addresses, website addresses, etc.).”

This section of the NATCP should describe strategies for sharing information, identifying potential or emerging issues, gathering input in advance of key development activities or stages, and resolving issues identified by the Lessee or Tribe.

The Lessee(s) and each Tribal government should determine the types of engagement activities and updates that may need to involve the designated Tribal Representatives, Tribal Historic Preservation Officer, and key administrative staff; the Council of Trustees, the Tribal Council, or similar governing body; and/or the Chief, President, or executive office holder.

Conversations with an individual Tribal Representative may not mean that all the necessary points of contact, or Tribal leadership, have been informed about the project. Lessees should work with the Tribal governments to determine the best ways to keep all relevant Tribal contacts informed about opportunities to engage, including attending public meetings on all aspects of the project and potential impacts.

6.1. Information and Data Sharing

The Lessee should include the following in this section of the NATCP:

- Describe the kinds of information (e.g., proposed cable routes) and data (e.g., project monitoring data collected) that the Lessee will share with the Tribes. Explain when Lessees will share information, the proposed level of detail, and the objective in sharing the information (e.g., informational only or requesting feedback).
- Describe what kinds of information the Lessee will not share and why (e.g., business confidential, competitive disadvantage, etc.).
- Provide details on the process for how Tribes would request and receive information not included in the NATCP or Progress Reports, how Tribes would submit follow-up questions, and how the Lessee will answer.
- Tribes may have concerns about sharing the content of consultations (including the discussion and identification of sites of religious and cultural significance to Tribes) with the Lessee, other Lessees, or the public. Describe how Lessees will keep sensitive Tribal information confidential.
- Describe multiple ways to share the same information to ensure accessibility by all intended audiences. Channels for communication may include, but are not limited to,

the following:

- Electronic communications, such as email, texts, website listservs, and similar communications
 - Face-to-face, one-on-one communication
 - Telephone communication
 - Print media, such as newsletters, press releases, and fact sheets
 - Meetings, workshops, and other invite-only or public forums
 - Existing forums likely to be use regularly (e.g., Tribal Council meetings)
 - Websites to share information or post Progress Reports or other activity notifications
 - Interactive and static maps shared online
 - Podcasts and videos
- Include how the Lessee will make information accessible for audiences with differing cultural, language, or other accessibility needs.

6.2. Engagement Strategies

- Effective engagement involves building mutual trust and respect, listening as well as talking, educating as well as awareness, problem solving as well as problem identification, and dialogue as well as information sharing. Engagement can also be transactional: Tribes may simply desire information about a project activity and may not seek longstanding engagement. The communication plan should outline if and when these strategies and tools may be appropriate based on the interests of the Tribes.
- The NATCP should, to the extent practical, describe the following for each stage of development (see Appendix C for project development phases and key issues):
 - Points of contact or departments within each Tribe
 - Communication strategies and tools to solicit and understand Tribal concerns and observations
 - Other details, such as the frequency and timing of engagement, meeting locations or virtual platforms that might be used, and the format for the engagement activities
 - Likely issues and interests to address
 - Process for responding to or considering requests and concerns received
- The strategies should be specific to the audiences, be culturally appropriate, and recognize the standing of that audience (i.e., recognition of Tribal sovereignty and historical claims).
- As noted above, the Lessee should notify BOEM if any Tribe requests government-to-government consultations in lieu of direct communication with the Lessee.

The following tables provide the proposed format for this information.

Summary of Engagement Plan with [Name of Tribe]

Contact Information*	Name Title Email Mobile phone
Type of Engagement(s)	
Coordinated Engagement with Other Lessees	
Meeting Location(s)	

*List more than one and their area of engagement if appropriate.

Frequency and Focus of Engagement by Phase

Phase	Frequency (e.g., milestone-based and/or monthly)	Issue Areas
Site Assessment and Characterization, and Project Development		[e.g., survey plans, communication plans, progress reports, regular updates]
Project Design and Development Plan		[e.g., array design and siting; transmission planning]
COP Development		[e.g., results of social, environmental, and cultural studies; plans for project design]
Environmental and Technical Review		[e.g., questions or comments on the COP, NEPA process]
Construction		[e.g., regular project updates; demonstration of compliance with approval conditions]
Operation and Maintenance		[e.g., regular project updates and demonstration of compliance with approval conditions]
Decommissioning		[e.g., review of decommissioning plan, demonstrating compliance with approval conditions]

7. Conflict Resolution

It is recommended that the Lessee describe any procedures allowing Tribes to bring complaints or grievances for resolution. BOEM may participate in any meetings addressing complaints or resolving grievances, and may help resolve any complaints or grievances, as appropriate.

8. Coordination of Engagement Across Leases

“To the maximum extent practicable, the Lessee must coordinate engagement activities for Tribes and parties with other regional Lessees and document their activities in the Progress Report. Lessee(s) must design coordinated engagement activities to decrease the communication and consultation burden on Tribes and parties. BOEM appreciates that not all engagement can be coordinated.”

- Recognizing that Tribes have limited resources for engagement with multiple Lessees, a key component of the NATCP is cooperation among the Lessees, with BOEM, and/or with the Tribes.
- The Lessee should describe how it plans to coordinate with the other geographically adjacent Lessee(s) and BOEM to minimize the burden on Tribes who are interested in multiple projects in the region, while at the same time providing project-specific information, as contemplated in these guidelines. This section may include, for example, identification of ways to minimize the number of interactions with multiple Lessees on similar matters and provision of information from common platforms shared across Lessees, and engagement across projects.
- Lessees should be specific as to how such combined-Lessee coordination will occur. For instance, Lessees may wish to work with BOEM, or other convening bodies, to organize a single meeting with all Tribes and Lessees to share information and seek input at key points in the project development phases, where these key points align in time.

9. Indicators of Success

The Lessee is encouraged to provide clear indicators to measure the success and efficacy of its communication plan and include progress on such indicators in the required 6-month Progress Report (see Appendix B). The purpose of monitoring the effectiveness of communication strategies and engagement activities is to gather information that can guide changes to the communication strategies and the NATCP if needed.

10. 508 Compliance

Section 508 of the Rehabilitation Act of 1973 requires federal agencies to make their electronic and information technology accessible to people with disabilities. BOEM requests Lessees to prepare documents compliant with Section 508 so BOEM can readily post the report on its website. Information on how to create accessible digital products can be found at www.section508.gov/create.

APPENDIX A: Other Relevant Guidance and Best Practice Resources

Below is a partial list of relevant federal or state agency guidance and best practice documents that might inform the communications plan, as of August 2022:

- BOEM Tribal Consultation Guidance (BOEM):
<https://www.boem.gov/sites/default/files/about-boem/Public-Engagement/Tribal-Communities/BOEM-Tribal-Consultation-Guidance-with-Memo.pdf>
- Consultation with Indian Tribes and Alaska Native Corporations (U.S. Department of Interior):
<https://www.boem.gov/sites/default/files/documents/about-boem/Chapter%204%20DOI%20Policy%20on%20Consultation%20with%20Indian%20Tribes.pdf>
- Procedures for Consultation with Indian Tribes, (U.S. Department of the Interior):
<https://www.boem.gov/sites/default/files/documents/about-boem/Chapter%205%20DOI%20Procedures%20for%20Consultation%20with%20Indian%20Tribes.pdf>
- Guidelines for Information Requirement for a Renewable Energy Site Assessment Plan (SAP) (BOEM):
<https://www.boem.gov/sites/default/files/renewable-energy-program/BOEM-Renewable-SAP-Guidelines.pdf>
- Early Coordination with Indian Tribes during Pre-Application Processes, A Handbook (Advisory Council on Historic Preservation):
https://www.achp.gov/sites/default/files/documents/2019-10/EarlyCoordinationHandbook_102819_HighRes.pdf

APPENDIX B: Goals and Best Practices for Communication and Engagement

Goals for Communication and Engagement

The goals for communicating with Tribes with cultural and/or historical ties to and an interest in the lease area might include the following:

- **Identify and understand who should be engaged** – To effectively tailor communication and engagement to the Tribe’s needs, identify key information such as the specific Tribes that might be impacted by project activities, what their interests are, their capacity for engagement, and their preferred method of communication.
- **Share information and build understanding** – In order for the Tribes to be able to provide informed input, communicate with Tribes in a timely manner about project activities and opportunities for engagement, and to share information about the technical and regulatory aspects of offshore wind.
- **Collaborate on ways to avoid, minimize, and mitigate impacts before they arise** – To optimize opportunities to finding joint solutions on how to avoid, minimize, or mitigate potential impacts, as early as possible seek to understand Tribal concerns and engage in two-way dialogue and problem solving.
- **Monitor, evaluate, and adjust** – To assess how effective the communications have been and find ways to improve engagement performance, develop ways to gather feedback from Tribes and utilize the feedback to adapt processes and communication.

Best Practices for Communication and Engagement

The following are examples of best practices to guide effective engagement:

- **Early and often** – Engaging early and often allows the parties the opportunity to address emerging issues before they become fixed or past the point of deliberations and allows Tribes to have input when the project is still being designed and refined.
- **Open and transparent** – Effective engagement includes frankness of discussion; acknowledgement of knowns and unknowns; tracking and reporting of commitments and progress or impediments to progress; sharing of truthful, timely, and relevant information; and clear communicate of decisions made and why.
- **Inclusive** – Make a deliberate effort to involve Tribes with an interest in the subject or action. Seek broad representation across impacted geographies, cultures, races, socioeconomic groups, and organizations.
- **Collaborative** – Listen to understand. Be responsive to inquiries and interests. Strive to understand concerns and find solutions that generate mutual benefits. Identify opportunities for partnering.
- **Accessible** – Commit to provide a variety of methods and opportunities for all to participate. Consider accessibility factors such as convenience of meeting times and accessibility of locations, and language and interpretation needs.
- **Equitable** – When deliberating or making decisions, account for the differing needs,

circumstances, and resources of all Tribes. Seek to understand the structural and systemic causes of energy and environmental injustice and inequity and address barriers. Acknowledge the knowledge and expertise Tribes bring to solving problems.

- **Flexible and sustained** – Adapt approaches to address emerging issues in different ways as needed. Allocate the resources needed to support sustained engagement with an understanding of the importance of a long-term commitment to building trusting relationships.
- **Safety** – Promote the safety of ocean users, stakeholders, and project crews, from project design through implementation.
- **Coordinated** – Ensure engagement efforts maximize efficiency and opportunities to coordinate with other Lessees and are appropriate to the capacity and cadence of all stakeholder groups.

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APPENDIX C. Phases of Project Development

Project development phases and key issues could include, but are not limited to, the following:

- Site Assessment and Characterization
 - Site Assessment Plans (SAPs)
 - Benthic and acoustic data collection
 - Meteorological data collection plan
 - Geotechnical and geophysical (G&G) survey plans
 - Fisheries and wildlife monitoring
 - Archaeological survey plan
 - Historical and cultural resources identification, evaluation, and assessment of impacts plan
- Project Design and Development Plans
 - Array design and siting, such as foundation design, array locations, transit corridors, if any
 - Transmission corridor planning and siting, including any additional facilities such as those accompanying direct current (DC) cables
 - Onshore facilities plan
- Construction and Operation (COP) Development (prior to submittal to BOEM)
 - Results of studies supporting the COP
 - Description of a project's potential impacts on environmental, social, economic, and cultural resources; recommendations for avoidance, minimization, and mitigation of those impacts
 - Efforts and outcomes in addressing stakeholder concerns of interest to that agency (e.g., fishermen for fishery agencies)
- Environmental and Technical Review (post submittal of COP to BOEM)
- Construction
- Operation and Maintenance
- Decommissioning