

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF OCEAN ENERGY MANAGEMENT

Conditions of Site Assessment Plan Approval
Lease Number OCS-A 0538
December 19, 2023

The Bureau of Ocean Energy Management’s (BOEM) approval of Attentive Energy LLC’s (Lessee or Attentive Energy) conduct of activities under the New York Bight Site Assessment Plan (SAP) for the installation and operation of a met facility in commercial Lease OCS-A 0538 is subject to the conditions set forth in this document. The Department of the Interior (DOI) reserves the right to amend these conditions or impose additional conditions authorized by law or regulation on any future approvals of any modifications to the SAP.

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1 Conditions for Cultural Resource Protection

- 1.1 No Impact without Approval. The Lessee must not knowingly impact a potential archaeological resource without BOEM's prior approval.
- 1.2 Post-Review Discovery Clauses. If, while conducting SAP activities, the Lessee discovers a potential archaeological resource, such as the presence of a shipwreck (e.g., a sonar image or visual confirmation of an iron, steel, or wooden hull; wooden timbers; anchors; concentrations of historic objects; or piles of ballast rock), or pre-contact archaeological site (e.g., stone tools; pottery) within the project area, then the Lessee must:
 - 1.2.1 Immediately halt seafloor/bottom-disturbing activities within the area of discovery;
 - 1.2.2 Notify BOEM (renewable_reporting@boem.gov) and the Bureau of Safety and Environmental Enforcement (BSEE) (env-compliance-arc@bsee.gov and via TIMSWeb at <https://timsweb.bsee.gov>) within 24 hours of discovery;
 - 1.2.3 Notify BOEM (renewable_reporting@boem.gov) and BSEE (env-compliance-arc@bsee.gov and via TIMSWeb) in writing via report within 72 hours of discovery;
 - 1.2.4 Keep the location of the discovery confidential and take no action that may adversely affect the archaeological resource until BOEM has made an evaluation and instructs the applicant on how to proceed; and
 - 1.2.5 Conduct any additional investigations as directed by BOEM to determine if the resource is eligible for listing in the National Register of Historic Places (NRHP) (30 C.F.R. 585.802(b)). BOEM will direct the Lessee to conduct such investigations if: (1) the site has been impacted by the Lessee's project activities; or (2) impacts to the site or to the area of potential effect cannot be avoided. If investigations indicate that the resource is potentially eligible for listing in the NRHP, BOEM will instruct the Lessee as to how to protect the resource, or how to mitigate adverse effects to the site. If BOEM incurs costs in protecting the resource, under Section 110(g) of the National Historic Preservation Act (NHPA), BOEM may charge the Lessee reasonable costs for carrying out preservation responsibilities under the Outer Continental Shelf (OCS) Lands Act (30 C.F.R. 585.802(c & d)).

2 Conditions Related to Protected Marine Mammals, Sea Turtles, and Fish

- 2.1 Project Design Criteria for Protected Species. The Lessee must comply with all the *Project Design Criteria and Best Management Practices for Protected Species*¹ and conditions of the June 29, 2021, letter of concurrence under the Endangered Species Act (ESA)². These Project Design Criteria and Best Management Practices implement the integrated requirements for threatened and endangered species under the ESA³ and non-ESA-listed marine mammals under the Marine Mammal Protection Act. All reports required in Project Design Criteria (PDC) 8 must be submitted to BSEE (via TIMSWeb and at protectedspecies@bsee.gov) in addition to being submitted to BOEM (renewable_reporting@boem.gov).

3 Conditions for Avian and Bat Protection

- 3.1 Anti-perching Devices. The Lessee must install anti-perching devices on the meteorological buoy as soon as, and to the extent, practicable.
- 3.2 Lighting. Consistent with, and not conflicting with, any measures that may result from requirements in Section 4, the Lessee must use any additional lighting only when necessary, and such lighting must be hooded downward and directed, when possible, to reduce upward illumination and the illumination of adjacent waters.
- 3.3 Reporting Requirement for Avian and Bat Species. The Lessee must provide the BOEM, BSEE and the United States Fish and Wildlife Service (USFWS) an annual report documenting any dead or injured birds or bats found on structures during installation, operation, and decommissioning of the meteorological buoy. The reports are due each November 1 after the date of the SAP approval and required for every year that the buoy is deployed. Each report must be sent to the BOEM (renewable_reporting@boem.gov), BSEE (via TIMSWeb with a notification email to protectedspecies@bsee.gov) and to USFWS at the New Jersey Field Office (point of contact: Wendy Walsh, wendy_walsh@fws.gov) and Long Island Field Office (point of contact: Steve Papa, steve_papa@fws.gov). If the USFWS Field Office point of contact is no longer active, the Lessee must identify a point of contact through the USFWS.

Each report must contain the following information: the name of species; date found; location; a picture to confirm species identity (if possible); and any other relevant information. The Lessee must report carcasses with Federal or research bands to the

¹<https://www.boem.gov/sites/default/files/documents/PDCs%20and%20BMPs%20for%20Atlantic%20Data%20Collection%2011222021.pdf>

²<https://www.boem.gov/sites/default/files/documents/renewable-energy/OSW-surveys-NLAA-programmatic.pdf>

³<https://www.boem.gov/renewable-energy/nmfs-esa-consultations>

4 Conditions Related to Private Aids to Maritime Navigation

- 4.1 The Lessee must file an application (Form GC-2554 or Form CG-4143) with the commander of the U.S. Coast Guard (USCG) Fifth District to establish a private aid to navigation (PATON), per 33 C.F.R. Part 66. Upon receipt of the application, the commander of the USCG Fifth District will provide an information sheet outlining the Lessee's responsibilities for the establishment, operation, maintenance, and discontinuance of the PATON.
- 4.2 The Lessee must submit a copy of the USCG-approved PATON to the BOEM Office of Renewable Energy Programs (OREP) Project Coordinator and BSEE (TIMSWeb) prior to deployment of any facilities covered by Section 4.1.

5 Avoidance of Archaeological and Benthic Resources

- 5.1 The Lessee must ensure that all anchor points for vessels and SAP facilities are placed at least 50 meters beyond the furthest extent for any identified magnetic anomalies or sonar targets on the seafloor. These magnetic anomalies or sonar targets, identified by the Qualified Marine Archaeologist, may represent buried shipwrecks or other historic and/or cultural elements that may be significant under the NHPA. The avoidance criterion provided is to prevent any damage to these unknown sites and associated debris fields. The Lessee can either avoid these sites by the prescribed 50 meters or investigate them to ensure that they do not represent submerged archaeological resources that may be eligible for listing in the NRHP.

6 Conditions Related to System Deployment

- 6.1 Within 90 days after installing the facility, the Lessee must provide to the BOEM Project Coordinator and to BSEE (TIMSWeb) a deployment report, including the following information:
 - 6.1.1 A location plat with precise latitude and longitude coordinates.
 - 6.1.2 A record of any technical, engineering, design, or methodology deviations from the approved SAP.
 - 6.1.3 As-built drawings of the facility.
 - 6.1.4 As-placed anchor plats to demonstrate that seabed-disturbing activities complied with avoidance requirements for seafloor features and hazards, sensitive benthic habitat, archaeological resources, magnetic anomalies, and/or sonar targets. As-placed plats must show the "as-placed" location of all anchors and any associated anchor chains and/or wire ropes and relevant locations of interest or avoidance on the seafloor for all seabed disturbing

activities. The plats must be at a scale of 1 inch = 1,000 feet (300 meters) with Differential Global Positioning System (DGPS) accuracy.

7 Modifications

- 7.1 The Lessee, by itself or through its designated operator, may request a modification of a term in the SAP or of these conditions of approval. BOEM will review this request and determine whether the modification requires a revision to the SAP under 30 C.F.R. 585.617. If BOEM determines that the requested modification does not require a revision to the SAP, then BOEM will provide a written response to the Lessee and its designated operator approving, approving with conditions, or disapproving the modification. This written response will become a part of the approved SAP.