



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

SENT VIA ELECTRONIC MAIL

May 19, 2023

The Honorable Cheryl Andrews-Maltais
Chairwoman of Wampanoag Tribe of Gay Head (Aquinnah)
20 Black Brook Road
Aquinnah, MA 02535
chairwoman@wampanoagtribe-nsn.gov

Dear Chairwoman Andrews-Maltais:

The U.S. Environmental Protection Agency (EPA) received an application from Sunrise Wind, LLC (SRW) on August 17, 2022, and an application from SouthCoast Wind Energy, LLC (SouthCoast) on November 23, 2022, for a preconstruction permit in accordance with the Outer Continental Shelf (OCS) Air Regulations contained in 40 C.F.R. part 55. EPA deemed the SRW and SouthCoast applications complete on March 21, 2023 and April 13, 2023, respectively. Per the *EPA Policy on Consultation and Coordination with Indian Tribes*, EPA Region 1 welcomes the opportunity to conduct government-to-government consultation prior to issuing a permit decision.

The proposed project for SRW is located in federal waters on the OCS approximately 13 nautical miles south of Nomans Land Island, Massachusetts, and the proposed project for SouthCoast is located in federal waters on the OCS approximately 20 nautical miles south of Nantucket, Massachusetts. Because the SRW and SouthCoast wind projects each have the potential to emit air pollutants and are located on the OCS, they are subject to all applicable requirements contained in 40 C.F.R. part 55, including air permitting requirements.

As background, Section 328(a) of the Clean Air Act (42 U.S.C. § 7401 *et seq.*) as amended by Public Law 101-549 enacted on November 15, 1990, required the EPA to establish air pollution control requirements for OCS sources subject to the Outer Continental Shelf Lands Act (OCSLA) for all areas of the OCS, except those located in the Gulf of Mexico west of 87.5 degrees longitude,¹ in order to attain and maintain federal and state ambient air quality standards and comply with the provisions of part C of title I of the Act.² To comply with this statutory mandate, on September 4, 1992, the EPA promulgated “Outer Continental Shelf Air Regulations” at 40 C.F.R. part 55. *See* 57 FR 40792.

OCS sources can include wind energy development sources which are authorized under OCSLA at 43 U.S.C. § 1337(p)(1)(C).³ The Department of Interior delegated this authority to the Minerals Management Service (now the Bureau of Ocean and Energy Management, or BOEM). On April 22, 2009, BOEM issued final regulations for the OCS Renewable Energy Program. These regulations, codified at 30 C.F.R. part 585, provide a framework for issuing leases, easements, and rights-of-way for OCS activities that support production and transmission of energy from sources other than oil and natural gas.

We recognize our responsibility to consult on a government-to-government basis with federally recognized tribes on efforts that may affect tribal interests. Consultation is a process of meaningful communication and coordination between the EPA and tribal officials prior to EPA taking actions or implementing decisions that may impact tribes. **This letter is a formal invitation for consultation with the EPA on behalf of your Tribe to discuss the actions that we are preparing with respect to the Sunrise Wind Farm and SouthCoast Wind projects, respectively.**

To ensure that your interests are duly considered, we are prepared to consult with you, or your designees should you desire. If you would like to initiate government-to-government consultation with the EPA on this action, please contact Pujarini Maiti and Andre Turner by email at maiti.pujarini@epa.gov and turner.andre@epa.gov. If you desire government-to-government consultation with the EPA, we kindly request that you notify us by June 20, 2023. If we do not receive a response from you by this date, we will assume that you do not wish to pursue consultation on this matter and EPA Region 1 will move forward with the permitting action.

If you would like to review a copy of the OCS air permit application or any additional materials related to this project, please contact Pujarini Maiti and Andre Turner by email at maiti.pujarini@epa.gov and turner.andre@epa.gov to receive a copy of the materials.

We seek your input to assure that we conduct our efforts with sensitivity to the needs and culture of your tribe and with attention to the potential impacts of our actions. We look forward to receiving your feedback. Thank you for your cooperation in this matter.

Sincerely,

Lynne A. Hamjian, Director
Air and Radiation Division

cc: Bret Stearns, Indirect Services Administrator (via email)
Bettina Washington, THPO (via email)