

512 DM 7– Draft Language	512 DM 7– Updated Language	Explanation of Changes
		<p>All references throughout the chapter are updated to DM 7. This change is to reflect that this is a new chapter to the Departmental Manual.</p> <p>“DOI” replaced with “Department” or “Departmental” throughout the chapter.</p>
<p>5.1 Purpose. This chapter provides the procedures and process for <u>the Department of the Interior (DOI) consultation between appropriate Alaska Native Claims Settlement Act Corporations (ANCSA Corporations)</u> Tribal officials and DOI officials. <u>Please see 512 DM 5 for Department of the Interior Consultation Policy with Federally Recognized Tribes including Alaska Native Villages.</u></p>	<p>5.17.1 Purpose. This chapter provides the procedures and process for <u>the Department of the Interior (Department) consultation between appropriate Alaska Native Claims Settlement Act Corporations (ANCSA Corporations)</u> Tribal officials and Department officials. <u>Please see 512 DM 5 for Department of the Interior Consultation Policy with Federally Recognized Tribes including Alaska Native Villages.</u></p>	<p>No change to this section.</p>
<p>5.2 Scope. All DOI bureaus/offices shall follow the processes in this chapter for consultation with <u>ANCSA Corporations</u>.</p>	<p>7.2 Scope. All Department bureaus/offices shall follow the processes in this chapter for consultation with <u>ANCSA Corporations</u>.</p>	<p>No change to this section.</p>
<p>5.3 Authority. Executive Order (EO) 13175 (Consultation and Coordination</p>	<p>7.3 Authority. Executive Order (EO) 13175 (Consultation and Coordination with</p>	<p>Updated citation reference.</p>

<p>with Indian Tribal Governments)- Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, Div. II.</p> <p>§ 161, 118 Stat. 3, 452 (2004) as amended by Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, Div. H., Title V. §518, 118 Stat. 2809, 3267 (2004).</p>	<p>Indian Tribal Governments)- Consolidated Appropriations Act 2004, Pub. L. 108-199, Div. H, §161, 118 stat. 3, 452 (2004), as amended by Consolidated Appropriations Act 2005, Pub. L. 108-447, Div. H, Title V, §518, 118 stat. 2809, 3267 (2004).</p>	
<p>5.4 Consultation.</p> <p><u>A. Requirement for Consultation.</u> Bureaus and offices must <u>invite ANCSA Corporations early in the planning process to</u> consult whenever a <u>proposed</u> DOI plan or action with <u>Departmental Action with ANCSA Corporation Implications</u> arises.</p> <p><u>B. Appropriate Representatives at Consultation.</u></p> <p>(1) The DOI official with authority to decide on the proposed DOI <u>Action with ANCSA Corporation Implications</u> must <u>participate in the consultation.</u></p>	<p>7.4 Consultation.</p> <p><u>A. Requirement for Consultation.</u> Bureaus and Offices must <u>invite ANCSA Corporations as early as possible in the planning process to</u> consult whenever a <u>proposed</u> Department plan or action with <u>Departmental Action with ANCSA Corporation Implications (as defined in 512 DM6.3(C)) is being considered</u>arises. <u>Bureaus and Offices should operate under the assumption that all actions with land or resource use or resource impacts may have ANCSA Corporation implications and should extend consultation invitations accordingly. When ANCSA Corporations indicate that there is substantial and direct effect of the Departmental Action with ANCSA Corporation Implications, DOI must engage in consultation.</u></p> <p><u>B. Appropriate Representatives at Consultation.</u></p>	<p>7.4 (A) Language was added to mirror language in 512 DM 5.4 and on comments from ANCSA Corporations during consultation.</p> <p>7.4(B) (1) Language added to indicate Bureau/Office subject matter experts should participate in the consultation and to mirror language in 512 DM 5.4</p> <p>7.4 (C) No change to this section</p> <p>7.4 (D) Language was updated per ANCSA consultation comment to indicate that CADR could be asked to facilitate dialog between the Department, ANCSA Corporations and Indian Tribes.</p> <p>7.4(E) Language was updated per ANCSA consultation comment to indicate the unique relations with ANCSA Corporations and Alaska</p>

<p>(2) The ANCSA Corporation CEO , acting in their official capacity may participate or choose to designate alternate or additional ANCSA Corporation representatives to participate in the consultation.</p> <p>C. Coordination. Bureaus/offices will work with each other and with other Federal agencies, where appropriate, to coordinate consultation.</p> <p>D. Facilitation Support. In planning consultation, bureaus and offices should consider best practices for engagement, including but not limited to, the use of neutral facilitation and other collaborative problem-solving approaches to promote effective dialogue and conflict resolution. Such support is available through the Office of Collaborative Action and Dispute Resolution (CADR). In the event that If the consulting parties encounter an</p>	<p>(1) The Departmental official with authority to decide on the proposed Departmental Action with ANCSA Corporation Implications must participate in the consultation. Bureau or Office staff with subject matter expertise for the topic or program may be involved in the consultation.</p> <p>(2) The ANCSA Corporation CEO-, acting in their official capacity may participate or choose to designate alternate or additional ANCSA Corporation representatives to participate in the consultation.</p> <p>C. Coordination. Bureaus/Offices will work with each other and with other Federal agencies, where appropriate, to coordinate consultation.</p> <p>D. Facilitation Support. In planning consultation, Bureaus and Offices should consider best practices for engagement, including but not limited to, the use of neutral facilitation and other collaborative problem-solving approaches to promote effective dialogue and conflict resolution. Such support is available</p>	<p>Native shareholders and to emphasize the goal of consultation is to engage in respectful dialog and mutual understanding to reach a common agreement.</p> <p>7.4(F) Language was updated per ANCSA consultation comment to indicate that information will be deemed confidential or sensitive if disclosure would negatively impact cultural or other sensitive ANCSA resources.</p> <p>7.4(G)(1) language was incorporated into 7.4(G) to mirror 512 DM 5.</p> <p>7.4(G)(2) Becomes 7.4(G)(1) per edit above. Language was updated per ANCSA consultation comment to indicate that due consideration to the interests and concerns of ANCSA Corporations when the head of a bureau or office s making a determination of how to proceed when consensus cannot be achieved.</p> <p>7.4(H) Language was updated per ANCSA consultation comment to</p>
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impasse, the parties may utilize the impartial facilitation, mediation, and consensus-building services provided by CADR.

E. Conduct in Consultation. Bureaus and offices must be open and candid with the ANCSA Corporation(s) during consultations and incorporate ANCSA Corporation views in their decision-making processes. The consultations, whether initiated by the ANCSA Corporation or DOI, must be respectful. ~~of Tribal sovereignty.~~

A.F. Confidential or Sensitive Information. Information received will be deemed confidential, unless otherwise provided by applicable law, regulation, or policy, if disclosure would ~~negatively impact upon a trust resource or~~ compromise the United States trustee's legal position in anticipation of/during administrative proceedings or litigation on behalf of the ANCSA

through the Office of Collaborative Action and Dispute Resolution (CADR). ~~In the event that~~ If the consulting parties encounter an impasse, the parties may utilize the impartial facilitation, mediation, and consensus-building services provided by CADR. Additionally, CADR can be called upon to facilitate dialog and discussion between the Department, ANCSA Corporations, and Indian Tribes in instances where there may disagreement.

E. Conduct in Consultation. Bureaus and Offices must be open and candid with the ANCSA Corporation(s) during consultations and incorporate ANCSA Corporation views in their decision-making processes. The consultations, whether initiated by the ANCSA Corporation or the Department, must be respectful, ~~meaning,~~ meaningful, and timely. Bureaus and offices should be mindful of the unique relationships with ANCSA Corporations and their Alaska Native shareholders, as well as the unique interests, roles, and responsibility of ANCSA Corporations. The goal in consultation is to have ANCSA Corporation leaders and Federal representatives engage in respectful dialog based on mutual understanding of the issues to reach a common agreement. ~~of Tribal sovereignty.~~

A.F. Confidential or Sensitive Information. Information received will be

indicate that DOI offices and bureaus should ask ANCSA Corporations about the Corporations preference for consultation methods and strive to accommodate those preferences.

<p><u>Corporations. Tribal government(s).</u></p> <p><u>G. Consensus-Seeking</u> Basis of consultation is rooted in meaningful dialogue where the viewpoints of <u>Corporations</u> and DOI, including its <u>and offices</u>, are shared, discussed, and</p> <p>(1) <u>Seeking Consensus.</u> <u>DOI officials should work to achieve consensus with ANCSA Corporations.</u></p> <p>(2) <u>Dispute Resolution.</u> <u>Where consensus cannot be achieved, the head of the bureau or office will review the consultation information and consensus-seeking documentation and make a determination on how to proceed.</u></p> <p><u>H. Consultation Session Methods.</u> <u>A</u> <u>consultation session methods may include</u>is, but <u>are</u>is not limited to, in-person meetings, video-conferences, teleconferences, and correspondence to</p>	<p>deemed confidential, unless otherwise provided by applicable law, regulation, or policy, if disclosure would <u>negatively impact upon cultural or other sensitive ANCSA resources or negatively impact upon a trust resource or</u> compromise the <u>United States trustee's</u> legal position in anticipation of/ or during administrative proceedings or litigation on behalf of the <u>ANCSA Corporations. Tribal government(s).</u></p> <p><u>G. Consensus-Seeking</u> The basis of consultation is rooted in meaningful dialogue where the viewpoints of <u>ANCSA Corporations</u> and the Department, including its Bureaus and Offices, are shared, discussed, and analyzed. <u>Seeking Consensus.</u> <u>Departmental officials should work to achieve consensus with ANCSA Corporations.</u></p> <p>(1) <u>Dispute Resolution.</u> <u>Where consensus cannot be achieved in a consultation with a Bureau or Office; the head of the Bureau or Office will review the consultation information and consensus-seeking documentation and make a determination on how to proceed after giving due consideration to the</u></p>	
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discuss a specific issue, and must identify the session as consultation in advance of the scheduled meeting. ~~In the case of in-person meetings, video conferences, and teleconferences, the e~~Consultation session methods may be expanded upon through subsequent correspondence after consultation is initiated through written notification. DOI will strive to include both in-person and virtual consultation session methods to provide ANCSA Corporations with access to participate in at least one consultation session for a specific issue, regardless of their travel capabilities. On a case-by-case basis, consultation may be held through a series of written correspondence with the ANCSA Corporation leadership, but ~~this process of utilizing written correspondence should~~ only be used when other consultation session methods of dialogue are not feasible. Providing notification (the distribution of information from one or more DOI offices) to one or more ANCSA Corporations of a Departmental action as a stand-alone effort is not consultation.

interests and concerns of the ANCSA Corporation.

H. Consultation Session Methods. ~~A~~ eConsultation session methods may includeis, but ~~are~~is not limited to, in-person meetings, video-conferences, teleconferences, and correspondence to discuss a specific issue, and must identify the session as consultation in advance of the scheduled meeting. ~~In the case of in-person meetings, video conferences, and teleconferences, the e~~Consultation session methods may be expanded upon through subsequent correspondence after consultation is initiated through written notification. The Department will strive to include both in-person and virtual consultation session methods to provide ANCSA Corporations withCorporations with access to participate in at least one consultation session for a specific issue, regardless of their travel capabilities. Departmental Offices and Bureaus should ask ANCSA Corporations about their preference for consultation session methods and strive to accommodate those preferences, and where possible should grant requests for one-on-one consultations. On a case-by-case basis, consultation may be held through a series of written correspondence with the ANCSA Corporation leadership, but ~~this process of~~

	<p>utilizing written correspondence should only be used when other <u>consultation session</u> methods of dialogue are not feasible. <u>Providing notification (the distribution of information from one or more Departmental offices) to one or more ANCSA Corporations of a Departmental action as a stand-alone effort is not consultation.</u></p>	
<p>5.5 Consultation Procedures. Bureaus/offices will carry out the consultation stages described below for a Departmental <u>A</u>ction with <u>ANCSA Corporation tribal</u> <u>I</u>mplications.</p> <p>A. Initial Planning Stage. (1) The appropriate DOI officials within a bureau/office will provide notice to, and begin <u>invite ANCSA Corporations to</u> <u>consultation</u> as early as possible</p>	<p>7.5 Consultation Procedures. <u>It is the responsibility of Departmental Offices and Bureaus to proactively engage ANCSA Corporations at the appropriate time throughout the consultation process.</u> Bureaus/Offices will carry out the consultation stages described below for a Departmental <u>A</u>ction with <u>ANCSA Corporation tribal</u> <u>I</u>mplications.</p>	<p>7.5 Language was updated per ANCSA consultation comment indicate that it is DOI's responsibility to proactively engage ANCSA Corporations at the appropriate time throughout consultation.</p> <p>7.5(A)(1) Language was updated per ANCSA consultation comment to indicate that the consultation process should be</p>

<p>when considering a Departmental <u>DOI</u> a Action with <u>ANCSA Corporation</u> Implications and provide <u>ANCSA Corporations</u> a meaningful opportunity to participate in the consultation process. Providing notification (the distribution of information from one or more DOI offices) to one or more Tribes of a Departmental action as a stand-alone effort is not consultation . (The appropriate DOI officials are those individuals who are knowledgeable about the matters at hand, are authorized to speak for a bureau/office, and who exercise delegated authority in the disposition and implementation of a bureau/office action.)</p> <p>(2) Notification of a consultation should include sufficient detail of the topic to be discussed to allow <u>ANCSA Corporation</u> leaders <u>to determine if they want to accept the invitation and, if so, provide</u> an opportunity to fully engage in the consultation. Adequate notice entails providing</p> <p style="padding-left: 40px;">(i)-a description of the topic(s) to be discussed;</p>	<p style="text-align: center;">A. <u>Initial Planning Stage.</u></p> <p style="padding-left: 40px;">(1) The appropriate Departmental officials within a Bureau/Office will provide notice to, and begin <u>ANCSA Corporations to</u> Corporations <u>inviting them to</u> consultation as early as possible when considering a Departmental <u>Departmental</u> a Action with <u>ANCSA Corporation</u> Implications and provide <u>ANCSA Corporations</u> a meaningful opportunity to participate in the consultation process. <u>The process should be carried out in a manner that respects the role of ANCSA Corporations as representatives of Alaska Native shareholders. Providing notification (the distribution of information from one or more DOI offices) to one or more Tribes of a Departmental action as a stand-alone effort is not consultation .</u> (The appropriate Departmental officials are those individuals who are knowledgeable about the matters at hand, are authorized to speak for a Bureau/Office, and who exercise delegated authority in the disposition and implementation of a Bureau/Office action.)</p> <p style="padding-left: 40px;">(2) Notification of a <u>consultation</u> should include sufficient detail of the topic to be discussed to allow <u>ANCSA Corporation</u> leaders <u>to determine if they want to accept the invitation and, if so, provide</u> an</p>	<p>carried out in a manner that respects the role of ANCSA Corporations as representatives of Alaska Native shareholders.</p> <p>7.5(A)(2) Language was updated per ANCSA consultation comment to indicate that DOI should work with ANCSA Corporations to determine the preferred method for notification on consultation, and that notification may be by, but not limited to, invitation letter and Federal Register notices. Language was also added to this section to indicate notice should include relevant background information, information on the right to identify confidential information, notice of how to request technical assistance, and general description of how technical assistance is provided.</p> <p>7.5(A)(3) No change to this section.</p> <p>7.5(A)(4) No change to this section.</p> <p>7.5(A)(5)(i) Language was updated per ANCSA consultation</p>
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<p>(ii) <u>The expected scope of the proposed DOI action under consideration;</u></p> <p>(iii) <u>The expected purpose of the DOI action under consideration;</u></p> <p>(i)(iv) <u>The expected a timeline of the process, and possible outcomes under consideration; and</u></p> <p>(v) <u>DOI offices and bureaus that are expected to participate in the consultation and development and implementation of the DOI action under consideration.</u></p> <p>(2)(3) <u>The notice should also give ANCSA Corporation leaders the opportunity to provide feedback prior to the consultation, including time to request technical assistance and/or clarification on how the consultation process conform to the requirements in this chapter</u></p>	<p>opportunity to fully engage in the consultation. <u>Departmental Offices and Bureaus should work with ANCSA Corporations to determine the preferred method for notification on consultation. Notification methods can include, but not limited to, consultation invitation letters and Federal Register notices.</u> Adequate notice entails providing:</p> <p>a) a <u>a</u> description of the topic(s) to be discussed;</p> <p>b) <u>The expected scope of the proposed Departmental action under consideration, including relevant background information and documentation;</u></p> <p>c) <u>The expected purpose of the Departmental action under consideration;</u></p> <p>d) <u>The expected a</u> timeline of the process, and possible outcomes <u>under consideration;</u></p> <p>e) <u>Notice of the right to identify confidential or sensitive information and</u></p>	<p>comment to indicate that DOI shall not unreasonably withhold granting an extension request.</p> <p>7.5(A)(6)(a) Language was updated per ANCSA consultation comment to indicate DOI should work with the ANCSA Corporations to schedule a consultation as soon as practicable.</p> <p>7.5(A)(6)(b) Language was added per ANCSA consultation comment to indicate that whenever an ANCSA Corporation requests an expedited consultation, DOI will work to schedule the consultation as soon as practicable and at a mutually agreeable time.</p> <p>7.5(B) Language was added per ANCSA consultation comment to mirror 512 DM 5.5(B)</p> <p>7.5(B)(1) No change to this section.</p> <p>7.5(B)(2) No change to this section.</p>
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<p><u>and preferred consultation method.</u></p> <p>(3)(4) <u>If the notice is announcing a scheduled consultation session,</u> The bureau/office will ensure that public notice <u>to the ANCSA Corporation(s)</u> is given at least <u>30 calendar</u> days prior to <u>the first</u> scheduled consultation <u>session</u>. If exceptional circumstances prevent notification within 30 days of the consultation, an explanation for the abbreviated notification will be provided in the invitation letter.</p> <p><u>(5) If the notice is announcing the opportunity to consult, without a scheduled consultation session, the notice should give the ANCSA Corporation leaders at least 30 calendar days (preferably 45 days) to request consultation before DOI action planning proceeds.</u></p> <p><u>(i) ANCSA Corporations</u> may request that DOI provide <u>an extension of</u> more than 30</p>	<p><u>detail regarding federal laws relevant to the protection of specific categories of information;</u></p> <p>a)f) <u>Notice of the right to request technical assistance and a general description of how the Department provides technical assistance;</u> <u>and</u></p> <p><u>g) Departmental Offices and Bureaus that are expected to participate in the consultation and development and implementation of the Departmental action under consideration.</u></p> <p>(2)(3) The notice should also give <u>ANCSA Corporation</u> leaders the opportunity to provide feedback prior to the consultation, including time to request technical assistance and/or clarification on how the consultation process</p>	<p>7.5(B)(3) updated the numbering of this section for consistency with 512 DM 5.</p> <p>7.5(C)(1) Language was added per ANCSA consultation comment to indicate that a summary of notices and communications along with methods of consultation should be included in the record of consultation provide to ANCSA Corporations.</p> <p>7.5(C)(3) Language was update per ANCSA consultation comment to include that DOI should explain any instance when ANCSA Corporations suggestions, views, and requests were not incorporated or consensus could not be attained.</p> <p>7.5(C)(4) Language was added per ANCSA consultation comment to indicate that the record of consultation transmitted to ANCSA Corporations should include an invitation to the ANCSA Corporation to provide feedback or submit input on needed training or technical</p>
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<p><u>calendar days</u>’ notice prior to <u>consider whether to request</u> consultation and, at its discretion, DOI may grant such requests.</p> <p>(i)(ii) <u>If a bureau/office invites an <u>ANCSA Corporation</u> to consult but does not receive a response, the bureau/office should make <u>good-faith, reasonable and periodic efforts to repeat the invitation and, when feasible, should allow an <u>ANCSA Corporation</u> to join an ongoing consultation. These efforts of engagement shall be appropriately documented.</u></u></p> <p>(2) <u>An <u>ANCSA Corporation</u> may request that the DOI initiate consultation when the <u>ANCSA Corporation believes</u> that a bureau/office is considering a departmental-DOI action with <u>ANCSA Corporation</u></u></p>	<p>conforms to the requirements in this chapter <u>and preferred consultation method.</u></p> <p>(3)(4) <u>If the notice is announcing a scheduled consultation session,</u> tThe Bureau/Office will ensure that <u>public</u> notice <u>to the <u>ANCSA Corporation(s)</u></u> is given at least <u>30 calendar</u> days prior to <u>the first</u> scheduled consultation <u>session</u>. If exceptional circumstances prevent notification within 30 days of the consultation, an explanation for the abbreviated notification will be provided in the invitation letter.</p> <p>(5) <u>If the notice is announcing the opportunity to consult, without a scheduled consultation session, the notice should give the <u>ANCSA Corporation</u> leaders at least 30</u></p>	<p>assistance concerning the final federal action.</p> <p>7.5(D) Language was deleted since it was duplicative of new language added at 7.5(C)(4).</p> <p>7.5(E) No change to this section.</p>
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implications. The appropriate bureau/office Tribal Liaison Officer TGO or appropriate representative will treat an official request for consultation in an expedited fashion and respond to the ANCSA Corporation in writing that DOI has received the request, using the most expedient methods to communicate (e.g. by email in addition to U.S. Mail) and should also follow up by phone to ensure the written response was received-
(3) Whenever a ANCSA Corporation requests consultation the Department will work with the ANCSA Corporation to schedule the consultation at a mutually agreeable time, usually 30 calendar days in advance.

B. Proposal Development Stage. The bureau/office will develop a process for the Proposal Development Stage that maximizes the opportunity for timely input by ANCSA Corporations and that is consistent with both ANCSA Corporation and bureau/office schedules and allows for ANCSA Corporation input in determining if there is substantial and direct effect to the Corporation...

calendar days (preferably 45 days) to request consultation before Departmental action planning proceeds.

a) ANCSA Corporations may request that the Department provide an extension of more than 30 calendar days' notice prior to consider whether to request consultation and, at its discretion, the Department may grant such requests, and such extension shall not be unreasonably withheld. If a Bureau/Office invites an ANCSA Corporation to consult but does not receive a response, the bureau/office should make good-faith, reasonable and periodic efforts to repeat the invitation

(1) Bureaus/offices will solicit the views of any affected ANCSA Corporation regarding the process timeline to consult on a Departmental Action with ANCSA Corporation implications. Bureaus/offices should work with ANCSA Corporations to structure a process, to the extent practicable, that considers specific ANCSA Corporation structures, traditional needs, and schedules of the ANCSA Corporation. Bureaus/offices may proceed with the expectation that interested ANCSA Corporations will respond within a reasonable time period, and only after documenting attempts to follow up on consultation letters thorough multiple forms (e.g., letters, emails).

(2) When the matter under consultation involves confidential or culturally sensitive information, the bureau/office will work with the ANCSA Corporation to develop a consultation process that addresses the sensitivity of the information to the extent permitted by Federal law. If litigation, ~~or~~ legal requirements, or natural disaster emergencies impact a bureau/office schedule for conducting consultation, the bureau/office shall explain the constraints to the ANCSA Corporation. If a determination is

and, when feasible, should allow an ANCSA Corporation to join an ongoing consultation. These efforts of engagement shall be appropriately documented.

6.

(+) An ANCSA Corporation may request that the Department initiate consultation when the ANCSA Corporation believes that a Bureau/Office is considering a Departmental action with ANCSA Corporation implications. The appropriate Bureau/Office Tribal Liaison Officer ~~TGO~~ or appropriate representative will treat an official request for consultation in an expedited fashion and respond to the ANCSA Corporation in writing that the Department has received the request, using the most expedient methods to communicate (e.g. by email in addition to U.S. Mail) and should also follow up by phone to ensure the written

made that the Administrative Procedure Act or other Federal law or regulation expressly prohibits continued discussion at a specified point in the decision-making process, the ANCSA Corporation should be informed at the earliest opportunity in this stage of the process.

C. Record of Consultation. On completion of the consultation period, the head of the DOI bureau/office or their designee must prepare and transmit to the ANCSA Corporation (or for national and regional consultations or if otherwise appropriate, publish on the website) documentation in a record of consultation that describes:

- (2) A summary of ANCSA Corporation input received;
- (3) An explanation of how that ANCSA Corporation input was addressed;
- (4) The reasoning for any instance in which ANCSA Corporation suggestions were not incorporated into the DOI action or consensus could not be attained.

response was received.

- a) Whenever an ANCSA Corporation requests consultation the Department will work with the ANCSA Corporation to schedule the consultation as soon as practicable and at a mutually agreeable time, usually 30 calendar days in advance.
- a)b) Whenever an ANCSA Corporation requests expedited ~~consultation~~consultation, the Department will work with the ANCSA Corporations to schedule the consultation as soon as practicable and at a mutually agreeable time.

B. Proposal Development Stage. The Bureau/Office will develop a process for the Proposal Development Stage that maximizes the opportunity for timely input by ANCSA Corporations and that is consistent with both ANCSA Corporation and Bureau/Office schedules and allows for ANCSA Corporation input in determining if there is substantial and direct effect to the Corporation. Examples of appropriate

D. Implementation of Final Federal Action Stage. Bureaus/offices may consider implementing a post-consultation review process that invites ANCSA Corporation feedback or considers the need for training or technical assistance concerning the final Federal action. The post-consultation review process shall not limit DOI's deliberative process privilege regarding internal considerations or any other applicable privilege.

E. Consultation Summary Report. Upon completion of the consultation, bureaus/offices must prepare a summary of the consultation activities. Information from the summaries should be used to develop the Annual Report described in 512 DM 6.74.8.

~~5.6—**Joint Federal-Tribal Consultation Team (Team).** The Secretary will appoint six to eight tribal leaders to serve on the Team and advise departmental officials on the consultation process. Each member's term of appointment may not exceed 2 years, and each member must be the duly elected tribal leader~~

processes for the proposal development stage include, but are not limited to, a series of open ANCSA Corporation meetings, or single meetings. Bureaus/Offices may perform these activities during the Initial Planning Stage, above, as appropriate.

(1) Bureaus/Offices will solicit the views of any affected ANCSA Corporation regarding the process timeline to consult on a Departmental Action with ANCSA Corporation Implications. Bureaus/Offices should work with ANCSA Corporations to structure a process, to the extent practicable, that considers specific ANCSA Corporation structures, traditional needs, and schedules of the ANCSA Corporation. Bureaus/Offices may proceed with the expectation that interested ANCSA Corporations will respond within a reasonable time period, and only after documenting attempts to follow up on consultation letters thorough multiple forms (e.g., letters, emails).

(2) When the matter under consultation involves confidential or culturally sensitive information, the Bureau/Office will work with the ANCSA Corporation to develop a consultation process that addresses the sensitivity of the information to the extent permitted by Federal law.

(3) If litigation, ~~or~~ legal

~~for the duration of the term appointment, or cede the position at the expiration of the tribal leadership position.~~

~~B.F. The DOI officials should engage members of the team to determine what constitutes meaningful consultation to DOI's decisionmaking process. The DOI officials will also coordinate with the team and discuss implementation of best practices and lessons learned during the consultation process for future Departmental action.~~

~~C. The Team shall meet regularly to discuss the most recent quarter's DOI _____ons with Indian tribes to identify areas where consultation with engaged tribal stakeholders impacted Departmental action.~~

~~D.~~

~~E.G. Tribal Team members will be elected officers of tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities in order to comply with the~~

requirements, or natural disaster emergencies impact a Bureau/Office schedule for conducting consultation, the Bureau/Office shall explain the constraints to the ANCSA Corporation. If a determination is made that the Administrative Procedure Act or other Federal law or regulation expressly prohibits continued discussion at a specified point in the decision-making process, the ANCSA Corporation should be informed at the earliest opportunity in this stage of the process.

C. Record of Consultation. On completion of the consultation period, the head of the Departmental Bureau or ~~Office~~ or their designee must prepare and transmit to the ANCSA Corporation (or for national and regional consultations or if otherwise appropriate, publish on the website) documentation in a record of consultation that describes:

- (1) A summary of ANCSA Corporation input received, including a summary of notices and communications to and from the ANCSA Corporation, and consultation

~~exception of the Federal Advisory Committee Act (5 U.S.C. App.) contained in the Unfunded Mandates Reform Act (Pub. L. 104-4).~~

- methods;
- (2) An explanation of how that ANCSA Corporation input was addressed;
 - (3) The reasoning for any instance in which ANCSA Corporation suggestions, views, and requests were not incorporated into the Departmental action or consensus could not be attained.
- ~~(3)(4)~~ Inviting the ANCSA Corporation to provide feedback or submit input on the need for training or technical assistance concerning the final federal action

D. Implementation of Final Federal Action Stage. Bureaus/Offices ~~may~~ a post-consultation review process, ~~that invites feedback or considers the need for training or technical assistance concerning the final Federal action.~~ The post-consultation review process shall not

	<p>limit the Department's deliberative process privilege regarding internal considerations or any other applicable privilege.</p> <p>E. <u>Consultation Summary Report</u>. Upon completion of the consultation, Bureaus/Offices must prepare a summary of the consultation activities. Information from the summaries should be used to develop the Annual Report described in 512 DM <u>6.74.8</u>.</p>	
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