

# DRAFT



## Department of Pesticide Regulation Tribal Consultation Policy



August 2018

## TABLE OF CONTENTS

MESSAGE FROM THE DIRECTOR.....	3
DEPARTMENT OF PESTICIDE REGULATION CONSULTATION POLICY .....	4
I. STATEMENT OF PURPOSE.....	4
II. INTRODUCTION .....	4
III. DPR’S MISSION AND OBJECTIVES .....	6
IV. DEFINITIONS.....	6
V. CONSULTATION.....	8
VI. GUIDING PRINCIPLES .....	12
VII. ACTION PLAN.....	12
VIII. DISCLAIMER.....	13
APPENDIX: REFERENCES .....	14

*Cover: DPR staff photographs, Northwestern California Tribal Territories Herbicide Monitoring Project, 1997-2002.*

## MESSAGE FROM THE DIRECTOR

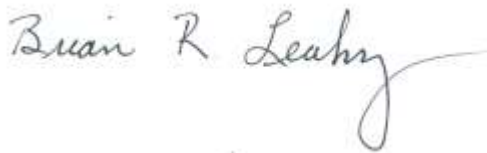
Communicating with California’s diverse population is a priority for the Department of Pesticide Regulation (DPR). Two-way communication helps to promote pesticide safety and awareness, and is a crucial part of the regulatory framework. This communication may include California Native American Tribes through consultation, enforcement, and outreach.

DPR and our County Agricultural Commissioner (CAC) partners recognize that access to technology presents both challenges and opportunities for better coordination and cooperation between state agencies and California Native American Tribes. DPR is committed to working with Tribes to assist them in making sound pesticide-related decisions.

This policy is a guide to improve communication and coordination with DPR, its enforcement partners, the CACs, and California Native American Tribes and includes background information to prepare DPR staff for successful communication related to pesticides, with Tribal representatives. The guiding principles used to create this policy are the [EXECUTIVE ORDER B-10-11](#), [CALEPA POLICY ON CONSULTATION WITH CALIFORNIA NATIVE AMERICAN TRIBES](#), and the goals of DPR’s [Strategic Plan](#).

This policy clarifies the role of DPR in responding to pesticide complaints and enforcement issues involving California Native American Tribes, and sets the stage for better communication through consultation with Tribes.

Sincerely,

A handwritten signature in cursive script that reads "Brian R. Leahy". The signature is written in black ink and is positioned above the typed name and title.

Brian Leahy  
Director

## **I. STATEMENT OF PURPOSE**

Governor Brown signed Executive Order B-10-11 on September 19, 2011, directing State agencies and departments, including DPR, to engage in effective government-to-government cooperation, collaboration, communication, and consultation with both federally recognized and non-federally recognized tribes when developing legislation, regulations, rules, and policies on matters that may affect Tribal entities. This consultation policy is intended to assist DPR in carrying out the Governor’s Executive Order, as well as the California Environmental Protection Agency’s (CalEPA’s) policy to ensure, improve, and maintain effective government-to-government relationships with tribes on environmental matters that may affect their lands, cultural and natural resources.

## **II. INTRODUCTION**

California is home to the largest Native American population in the United States. There are currently 109 federally recognized tribes and 56 non-federally recognized tribes within California.<sup>1</sup> All California Native American Tribes, whether officially recognized by the federal government or not, may have environmental, economic, and public health concerns different from the concerns of other tribes or the general public. These differences may exist due to unique lifestyles, cultural beliefs and values, traditions, historical events, and specific connections to areas of California that are Tribal ancestral homelands. Tribes might have an ancestral tie to an area even though they no longer reside in that area because many tribes were removed from their homelands and others were nomadic.

Legally, the difference between federally and non-federally recognized tribes is that federally recognized tribes are listed in the Federal Register and have a government-to-government relationship with the United States government as a distinct legal-political entity – a sovereign entity. These tribes possess certain kinds of rights that differ from the rights of other members of the public. Some of these rights are based on treaties, acts of Congress, Executive Orders, and court rulings. While non-federally recognized tribes may have an established governing body, they do not have this unique legal relationship with the federal government. Regardless of federal recognition, each tribe has its own government or leadership, unique history, demographics, and economic development opportunities.

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<sup>1</sup> This number is subject to change depending on recognition determinations made by the Bureau of Indian Affairs (BIA). Please consult the most current Federal Register for a list of federally recognized tribes and the Native American Heritage Commission for a list of non-federally recognized tribes in California.

### **Federal Tribal Pesticide Programs**

The U.S. Environmental Protection Agency (U.S. EPA) works cooperatively with Tribal governments, states, and territories to enforce federal pesticide law. For example, under Section 23 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA, the federal omnibus pesticide law), U.S. EPA may enter into cooperative agreements with tribes. These agreements may include provisions for tribes to assist U.S. EPA in ensuring compliance with FIFRA by obtaining federal inspector credentials, conducting inspections, and recommending enforcement actions to U.S. EPA. U.S. EPA also provides funding to tribes to assist in development and implementation of pesticide programs under Tribal law.

U.S. EPA's Office of Pesticide Programs (OPP) works with tribes, U.S. EPA regions, states, and other federal agencies to coordinate efforts related to tribes and pesticides. In particular, OPP works closely with the U.S. EPA Office of Enforcement and Compliance Assurance (OECA), which provides continuing funding support through U.S. EPA's regional offices, for Tribal cooperation in pesticide enforcement and related activities.

Staff from U.S. EPA's regional offices (in California, [Region 9](#)) provides assistance to tribes in assessing their pesticide program needs, negotiating cooperative agreements, and implementing pesticide programs where they are desired and needed. U.S. EPA has prepared a [guidance document](#) that focuses mainly on cooperative agreements authorized under FIFRA, Section 23(a) but also discusses other funding that may be available from U.S. EPA to address Tribal pesticide issues. It safeguards the flexibility tribes require to create and adopt programs that accommodate their own needs and priorities while defining basic, nationally consistent program elements that ensure U.S. EPA's equitable support of Tribal pesticide programs.

U.S. EPA also supports and partners with the Tribal Pesticide Program Council ([TPPC](#)), a network of Tribal representatives and intertribal consortia that serve as a Tribal technical resource, program development and policy dialogue group focused on pesticide issues and concerns.

### **DPR policy on California's authority on Tribal lands**

DPR's Nov. 2017 Pesticide Use Enforcement Program Standards Compendium to County Agricultural Commissioners (CAC) outlines the state's authority to regulate pesticide use on federal facilities and Tribal lands. [U.S. Executive Order 12088](#) requires the federal government to comply with federal pollution control standards but does not provide the states with authority to require compliance with state regulatory pesticide laws on federal or Tribal lands unless authorized by Congress or the President. Therefore, the state has no jurisdiction to enforce

its laws on Tribal lands nor can it impose civil penalties against persons for violations of state pesticide laws. With that said, county agricultural commissioners (who enforce pesticide laws locally under DPR oversight) are available by request to assist Tribal personnel in investigations of illegal pesticide use and other pesticide-related issues.

Consistent with Executive Order B-10-11, DPR engages with both federally recognized and non-federally recognized tribes for purposes of consultation, pesticide safety, and in some cases pesticide enforcement. DPR staff should consult with DPR’s Tribal liaison and Legal Office to determine if the distinction has legal implications for specific issues.

### III. DPR MISSION AND GOALS

As one of CalEPA’s Boards, Departments, and Offices (BDOs), DPR’s mission is to “protect human health and the environment by regulating pesticide sales and use, and by fostering reduced-risk pest management.”

DPR’s Goals include:

- Assuring California’s environment is not adversely affected by pesticides and that all people are protected from unacceptable risk.
- Protecting all people in California, regardless of race, age, culture, income, or geographic location, from adverse environmental and health effects of pesticides.
- Promoting an understanding and awareness of DPR programs, priorities, initiatives, and accomplishments through effective external communications, outreach and public education.

### IV. DEFINITIONS

For this policy, these terms will have the meanings defined below:

**Authorized Designee** is an individual that a Consultation Official has designated as being authorized to represent the agency during consultation, and who has the authority to make decisions on behalf of the DPR

**California Native American Tribe** means either a federally-recognized California Tribal government listed on the most recent notice of the Federal Register or a non-federally recognized California Tribal government, including those listed on the California Tribal Consultation List maintained by the California Native American Heritage Commission (NAHC).

**Collaboration** means communicating and working together through mutual respect and cooperation toward a common purpose. This exchange is conducted by respecting the protocols each respective tribe has established for contacting its governing body or its delegated official. It can be conducted through the Governor’s appointed Agency Secretary, BDO Chairperson, Executive Director, or their delegated representatives.

**Communication** refers to the dissemination, exchange, or sharing of information between CalEPA, its BDOs, and tribes.

**Consultation** is a meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the tribes’ potential needs for confidentiality with respect to places that have traditional Tribal cultural significance. (Gov. Code, § 65352.4.)

**Consultation Official** is the individual who engages in consultation with the tribe on a government-to-government basis who has authority to make decisions, such as DPR Director.

**Cultural Resource** refers to sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either included or determined to be eligible for inclusion in the California Register of Historical Resources or included in a local register of historical resources. (Public Res. Code, § 21074.) They are also sites, features, places, cultural landscapes, sacred places and objects with cultural value to a California Native American tribe that DPR or another state agency, in their discretion and supported by substantial evidence, have determined to be significant.

**Federal Recognition** refers to acknowledgement by the federal government that a Tribal government and Tribal members constitute a tribe with a government-to-government relationship with the United States, and eligibility for the programs, services, and other relationships established for the United States for Indians, because of their status as Indians. Federally recognized tribes have the power to make and enforce laws on their lands and create governmental entities such as Tribal courts. (25 U.S.C., § 83.2)

**Government-to-Government Relationship** is a relationship that exists between state, federal, local, and Tribal governments. Implicit in the relationship is a bilateral recognition of the sovereignty of the respective parties.

**Indian Country or Tribal Lands** means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running

through the reservation; (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. (18 USC. § 1151)

**Native American** broadly describes the people considered indigenous to North America who lived here prior to European colonization. This term includes American Indians, Indians, Alaska Natives, Eskimos, Aleuts, and Native Hawaiians.

**Reservations** are lands reserved by a tribe during treaty negotiations with the federal government for Tribal use, which are held in trust for the tribe by the federal government.

**Tribal Liaison** refers to DPR’s Tribal Liaison designee. Assigned by the Director, this person handles direct inquiries from tribes and CAC’s and arranges for consultations.

## **V. CONSULTATION**

### **A. Meaning of Consultation**

Government Code section 65352.4: “Consultation” means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American Tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the Tribes’ potential needs for confidentiality with respect to places that have traditional Tribal cultural significance.

### **B. Determining if Consultation is Required or Appropriate**

Consultation with tribes is often required by Executive Order B-10-11. However, even in the absence of a legal consultation requirement, it still can be appropriate to consult with tribes out of respect for their status as sovereign governments or based on the unique Tribal interests that may be affected by a proposed action, policy, or set of activities.

Actions that *may* have a direct Tribal implication, which could make consultation appropriate, would include the development and implementation of regulations, rules, policies, or guidelines that directly impact tribes traditionally and culturally affiliated with a geographic area, or the development and implementation of programs that directly impact tribes.



Environmental monitoring of resources impacting Tribal land, research authorizations for applications that could impact Tribal land, and enforcement actions involving pesticide applications on Tribal lands conducted under contract by pest control operators are examples of situations that could potentially require consultation.

DPR staff should contact DPR's Tribal liaison to help make this determination.

### C. When to Engage in Consultation

Consultation may arise because DPR has notified a tribe of proposed agency action that could result in Tribal implications or because the tribe has requested consultation. Regardless of how consultation arises, it should occur early enough in the decision-making process to allow tribes to provide meaningful input on the proposed action and to give DPR the opportunity to consider the tribe's input. Each consultation will be unique so DPR employees should work in coordination with DPR's Tribal liaison to determine the best time to begin consultation.

### D. Scope of Consultation

Each tribe has its own view of what it means to be a sovereign, including how the tribe prefers to communicate. A continuum of different interactions could qualify as a consultation depending on the individual tribe's interpretation of its sovereignty and other factors. DPR employees should use discretion when talking to tribes about consultation as the speaker and the listener may have different expectations about what is meant and how consultation should be conducted. It is important to let the tribe provide guidance on how the tribe defines consultation.

Some tribes only recognize consultation as a formal meeting that takes place between high ranking government officials and Tribal leaders. This process is conducted between the agency and tribe on a government-to-government basis. After this relationship has been established, agreements may be reached that recognize and sanction communications between the designated representatives of the high-ranking officials and Tribal leaders.

Other tribes may recognize meetings and communications between lower-ranking state-Tribal representatives as consultation. This process can be conducted through written communications, telephone contact, workshops, webinars, face-to-face meetings, or listening sessions, and is important for sharing information and developing mutual trust. Receipt of written or oral comments, views, and concerns in the planning phase is a key objective.

The scope of consultation may be shaped by different factors, including but not limited to:

1. Tribal political structure.
2. Tribal preference.
3. Subject matter.
4. Underlying statutory, regulatory, or policy requirements.
5. Nature and complexity of the issues.
6. Number of tribes affected.
7. Scale of Tribal implication.
8. Agency time and resource constraints.
9. Degree to which the agency-Tribal relationship has developed.
10. Whether a protocol has been established.

The type and extent of engagement should reflect the scope and impact of the proposed agency action. A large-scale action with substantial direct effect on several tribes might require a more coordinated approach with ongoing engagement and a series of meetings with high ranking officials. A less formal process such as webinars, phone calls, or face-to-face interactions with staff may be sufficient for more routine operational matters or matters that do not have substantial direct effect on tribes.

#### E. Whom to Consult

DPR engages in consultation with federally-recognized tribes and non-federally-recognized tribes on the NAHC list. DPR will work with the Bureau of Indian Affairs (BIA) for federally recognized tribes and the NAHC for non-federally recognized tribes to identify the tribes within certain geographic locations if a project will include ground-disturbing activities. DPR will also work with these agencies and the tribes themselves to identify the appropriate Tribal officials with whom DPR should consult. Determining who should represent a tribe is a matter that rests primarily with the Tribal leaders, but representation could include a combination of Tribal leaders, Tribal environmental directors, and subject matter experts.

#### F. Conclusion of Consultation

Consultation is considered concluded when:

1. The parties to the consultation come to a mutual resolution; or

2. Either DPR or the tribe, acting in good faith and after reasonable effort, concludes that a resolution cannot be reached.

If the parties to a consultation reach a mutual resolution, the consultation officials or their authorized designees will confirm the mutual resolution in writing and proceed to implement the measures agreed upon. If the parties declare an impasse, written documentation of all efforts and alternatives will be forwarded to the Tribal liaison and applicable DPR Branch Chief for review. The Branch Chief may recommend mitigation, alternatives, or proceeding with the project as planned and will forward recommendations, with an underlying rationale, to the Director for a final decision regarding the project. DPR will notify the tribe in writing to provide notice of its final decision(s).

When the consultation involves highly sensitive and complex issues, the consultation process may be extended to allow sufficient opportunity to reach a mutual agreement.

#### G. AB 52 Consultation

On September 25, 2014, the legislature enacted Assembly Bill 52 (AB 52), which amended the California Environmental Quality Act (CEQA). Under AB 52, CEQA analyses must now consider the potential for impacts to Tribal cultural resources, and under certain circumstances lead agencies must consult with tribes that are traditionally and culturally affiliated with the geographic area of the proposed project.

AB 52 consultations differ from other general consultations described in this policy because: AB 52 consultations relate only to the CEQA environmental analysis conducted for a project; apply only to agencies that are lead agencies for a project; specific timelines apply both to the agency and the tribe; and there are specific requirements the lead agency must follow.

DPR will work with tribes to implement the AB 52 consultation procedures. If a tribe makes the request and provides DPR with a map of their traditionally and culturally affiliated geographic area, DPR and / or the CAC will notify them of any research authorization pesticide application that has the potential to significantly impact a Tribal resource in that area. DPR staff should consult with the DPR Tribal liaison and Legal Office to determine whether AB 52 applies, the appropriate deadlines, and how to fulfill the requirements of AB 52.

## VI. GUIDING PRINCIPLES

DPR recognizes the [CALEPA POLICY ON CONSULTATION WITH CALIFORNIA NATIVE AMERICAN TRIBES](#), and adopts these guiding principles and best practices to improve and maintain effective government-to-government relationships and consultation with Tribes to the extent legal and practicable:

- Acknowledge and respect Tribal sovereignty.
- Understand that federally-recognized Tribes have a unique trust relationship with the federal government.
- Recognize that all California Native American Tribes represent distinct and independent governmental entities with specific beliefs, traditions and unique connections to areas of California that are their ancestral homelands.
- Communicate and consult with California Native American Tribes during the initial phase of decision-making processes that may affect Tribal lands, people, or cultural resources.
- Recognize and respect the cultural resources of California Native American Tribes, whether or not the cultural resources are located on Tribal lands.
- Acknowledge the need for confidentiality regarding places, land, people and cultural resources with traditional Tribal cultural significance.
- Consider the potential impact of the Agency's activities or programs on Tribal lands and cultural resources.
- Encourage collaborative efforts between California Native American Tribes and federal, state, and local government entities to resolve issues of mutual concern.

## VII. ACTION PLAN

DPR will work with California Native American Tribes to implement these guiding principles, to the extent legal and practicable, as follows:

- Maintain and solicit input from the CalEPA Tribal Advisory Committee (TAC) regarding environmental issues and projects involving California Native American Tribes.
- Designate a Tribal liaison within DPR as a central point of contact for Tribes.
- Develop and implement CalEPA's separate Tribal Consultation Protocol.
- Promote efforts of California Native American Tribes to develop and expand environmental programs through training, outreach, and technical assistance.
- Provide training to appropriate executive staff, managers, supervisors, and employees to improve DPR's ability to carry out meaningful consultation and communication with California Native American Tribes.
- Request relevant and available information, studies and data from California Native American Tribes when conducting research or

environmental studies that relate to, or could affect, Tribal lands or cultural resources.

- Upon request by a California Native American Tribe, provide training and technical assistance, and share data, as resources allow.
- Assess eligibility of California Native American Tribes for financial assistance programs such as grants, loans, and other financial opportunities.
- Provide an annual report on implementing this Action Plan to CalEPA’s Assistant Secretary for Tribal Affairs.

Tribal engagement and consultations will vary based on the unique action that the agency is undertaking and the Tribal concerns or preferences. DPR staff should coordinate with its Tribal liaison before any outreach, engagement, or consultation takes place to determine what action items should be completed, by whom, and to establish a timeline for completion of the action items.

## **VIII. DISCLAIMER**

This policy is intended solely for the guidance of DPR employees regarding Tribal consultation and does not extend to other governmental entities. It does not alter or modify the terms of any law and does not constitute legal advice. This policy is not intended, and should not be construed, to define the legal relationship between DPR and California Native American Tribes. This policy is not a regulation, and it does not create, expand, limit, waive, or interpret any legal rights or obligations. It does not affect or diminish any rights or protections afforded to any person or entity under any law. It waives no Tribal governmental rights, including treaty rights, sovereign immunities, or jurisdiction. Nothing in this policy will be construed to prevent DPR from taking timely action to fulfill legal obligations to protect the public health and safety, or the environment.

DPR reserves the right to revise this policy at any point in the future and such changes will be retroactively applicable to matters initiated prior to any revision of this policy. When DPR revises the consultation policy, the “last updated” date at the top of the consultation policy will reflect the date of the last change.

## APPENDIX A: REFERENCES

### ***Federal Statutes, Regulations, and Executive Orders***

Title 1 – United States Code sections 450 et seq.: The Indian Self-Determination Act (ISDA) directs the Interior and Health and Human Services to enter into self-determination contracts with Indian tribes for “planning, conducting or administering programs and services” that are funded by the federal government. The implementing regulation, 25 CFR Part 900 establishes consultation requirements for development of programs, relating to the budgeting process and spending, and with regard to contracts.

Title 4 United States Code sections 458aa to 458hh: The Tribal Self-Governance Act of 1994 expands the ISDA with regard to programming and services. The implementing regulation, 25 CFR Part 1000 establishes consultation requirements for program eligibility determinations and annual funding agreements.

Title 16 United States Code section 470, et seq.: The National Historic Preservation Act (NHPA) creates a framework for preservation of cultural resources and requires consultation when carrying out preservation and compliance responsibilities.

Title 16 United States Code sections 470aa to 470mm: The Archaeological Resources Protection Act (ARPA) protects archeological resources located on public and Indian lands. The implementing regulation, 43 CFR 7.7(a) discusses notification and meeting requirements.

Title 18 United States Code section 1151: The United States Criminal Code defines “Indian Country” as “(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.”

Title 25 United States Code section 3001: The Native American Graves Protection and Repatriation Act (NAGPRA) requires consultation regarding the treatment and disposition of specific cultural items (human remains, funerary objects, sacred objects, and cultural patrimony, etc.) prior to intentional excavation or removal of Native American human remains, during the inventory of human remains, and to determine place and manner of delivery.

Title 42 United States Code section 1996: The American Indian Religious Freedom Act (AIRFA) is a Congressional policy statement that recognizes the right to practice traditional religions, access to sacred sites located on public lands, and use and possess sacred objects. While it does not confer religious rights to Indians, procedural requirements have been upheld by specific courts.

Executive Order 13175: establishes meaningful consultation with tribes on development of federal policies, strengthens the government-to-government relationship, and reduces imposition of unfunded mandates on tribes.

Executive Order 12088: Federal compliance with pollution control standards  
Source: The provisions of Executive Order 12088 of Oct. 13, 1978, appear at 43 FR 47707, 3 CFR, 1978 Comp., p. 243, unless otherwise noted.

### ***State Statutes, Regulations, and Executive Orders***

Government Code section 11019.8: “All state agencies, as defined in Government Code section 11000, are encouraged and authorized to cooperate with federally recognized California Indian [t]ribes on matters of economic development and improvement for the [t]ribes.” This may include providing information on programs available, providing technical assistance on preparation of grants and applications for public or private funds, conducting meetings and workshops, or any other reasonable steps that could assist tribes in becoming economically self-sufficient.

Government Code section 65352.4: “Consultation” means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the tribes’ potential needs for confidentiality with respect to places that have traditional Tribal cultural significance.

Health & Safety Code section 8012, et seq.: The California Native American Graves Protection and Repatriation Act requires any agency or museum that has possession or control over California Native American human remains and associated funerary objects to inventory, attempt to identify the geographic location, and consult with the tribe believed to be affiliated with the items.

Public Resources Code section 5024.1: Establishes a California Register of Historical Resources as an authoritative guide in California to be used by state and local agencies, private groups, and citizens to identify the state's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change.

Public Resources Code section 5097.9 et seq.: Prohibits a public agency or private party from using or occupying public property, or operating on public property, under a public license, permit, grant, lease, or contract made on or after July 1, 1977, in any manner whatsoever that would interfere with the free expression or exercise of Native American religion as provided in the United States Constitution and the California Constitution; or cause severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, except on a clear and convincing showing that the public interest and necessity so require. This chapter establishes the Native American Heritage Commission, and specifies its powers and duties.

Public Resources Code section 21000 et seq.: Prior to the release of a negative declaration, a mitigated negative declaration, or an environmental impact report for a project, the lead agency is required to consult with tribes that are traditionally and culturally affiliated with the geographic area of the proposed project if the tribe requested notification and consultation. In the event that a project is determined to have a potential significant environmental effect, the act requires that alternative plans and mitigation measures be considered. CEQA includes Tribal cultural resources, historic, and archaeological resources as integral features of the environment.

Public Resources Code section 71110: “The California Environmental Protection Agency, in designing its mission for programs, policies, and standards, shall do all of the following: (a) Conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state. (b) Promote enforcement of all health and environmental statutes within its jurisdiction in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations in the state. (c) Ensure greater public participation in the agency's development, adoption, and implementation of environmental regulations and policies. (d) Improve research and data collection for programs within the agency relating to the health of, and environment of, people of all races, cultures, and income levels, including minority populations and low-income populations of the state. (e) Coordinate its efforts and share information with the United States Environmental Protection Agency. (f) Identify differential patterns of consumption of natural resources among people of different socioeconomic classifications for programs within the agency.”

CAL/EPA POLICY MEMORANDUM CIT-09-01, Aug. 2015: CAL/EPA POLICY FOR WORKING WITH CALIFORNIA INDIAN TRIBES <https://calepa.ca.gov/wp-content/uploads/sites/62/2016/10/Tribal-Policy-2015Policy.pdf>



Executive Order B-10-11: Reaffirms the inherent right of both federally recognized tribes and California Native Americans with sovereign authority over their members and territories, establishes the Governor’s Tribal Advisor position within the Governor’s Office, reaffirms the state’s commitment to working with tribes, and encourages communication and consultation with tribes.  
<https://www.gov.ca.gov/2011/09/19/news17223/>

### ***DPR, County Agricultural Commissioner Enforcement Letters and Documents***

Pesticide Use Enforcement Program Standards Compendium, Nov. 2017, Volume 1, Chapter 1, Section 5: “Pesticide Use on Federal Facilities & Tribal Land” [http://www.cdpr.ca.gov/docs/enforce/compend/vol\\_1/entirerep.pdf](http://www.cdpr.ca.gov/docs/enforce/compend/vol_1/entirerep.pdf)

Enforcement Letter ENF 14-07: To County Agricultural Commissioners “EPA PLAN FOR THE FEDERAL CERTIFICATION OF APPLICATORS OF RESTRICTED USE PESTICIDES WITHIN INDIAN COUNTRY”  
<http://www.cdpr.ca.gov/docs/county/cacltrs/penfltrs/penf2014/2014007.htm>

Enforcement Letter ENF 13-26: To County Agricultural Commissioners “Pesticide Research Authorization Updates, Forms, and Database”  
<http://www.cdpr.ca.gov/docs/county/cacltrs/penfltrs/penf2013/2013026.htm>

### ***DPR Special Projects***

Northwestern California Tribal Territories Herbicide Monitoring Project, 1997-2002: <http://www.cdpr.ca.gov/docs/specproj/tribal/tribproj.htm>

Protocol for Development of Methodologies to Assess Residues of Forestry Herbicides in Plants of Interest to Native Americans, Jan. 1996.  
<http://www.cdpr.ca.gov/docs/specproj/forest/138prot.htm>

### ***Other Resources***

[AB 52 Tribal Training](#)

[AB52 Tribal Consultation Requirements And Best Practices Revised 3 9 16](#)

California Tribal Directory:  
<https://docs.google.com/spreadsheets/d/1MFardFCehETFxFEA5WGDXYklvQVAFXmGQRoYqh7CK4Y/pub?output=html>

Federally Recognized Tribes in California (U.S. EPA – Region 9)  
<https://www.epa.gov/tribal/region-9-tribal-program#tribes>

Region 9 Tribal Consultation Document:  
<https://www.epa.gov/sites/production/files/2015-09/documents/consultation-approach-final.pdf>

Tribal Pesticide Program Council (TPPC) <http://tppcwebsite.org/>

**Acknowledgements**

*DPR would like to thank CalEPA Office of Tribal Affairs and the CalARB Tribal Liaison for their assistance in creating this document.*

*DPR Tribal Affairs web page:*  
[https://www.cdpr.ca.gov/docs/envjust/tribal\\_affairs.htm](https://www.cdpr.ca.gov/docs/envjust/tribal_affairs.htm)