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NATIVE AMERICAN TRIBAL COMMUNITIES RELATIONS

POLICY STATEMENT

The California Department of Forestry and Fire Protection shall work cooperatively with Native Americans in all facets of Departmental actions to protect cultural resources.

The Department shall:

- Consider “Native Americans” (hereinafter referred to as “tribes”) to include California Native American tribes and Native Americans.
- Acknowledge tribes as unique and separate entities or governments, or both, as appropriate.
- Consult with tribes to ensure Departmental programs and activities protect cultural resources through avoidance of those resources or through implementation of protection measures that minimize adverse impacts and significant effects.
- Recognize and respect tribal rights, sites, traditions, and practices.
- Consult with tribes for Departmental projects it undertakes or approves having the potential to impact tribal communities.
- Consult with tribes for Departmental planning efforts, assessments, strategic plans, etc. having the potential to impact tribal communities, lands, territories or resources.
- Encourage participation by tribes in obtaining grants, or otherwise conducting activities, for improvement of forest health or community risk reduction, planning and implementation.
- Work with tribes for protection of cultural resources during fire suppression efforts where practical, based on threat to public safety and situation.

The policy direction contained herein is intended to be consistent with similar policies developed by the California Natural Resources Agency and the Governor’s Office.

DEFINITION(S)

CAL FIRE actions mean:

(1) Projects that are carried out, supported, or approved (permitted) by CAL FIRE in its role as lead agency under the California Environmental Quality Act (timber harvesting plans, non-industrial timber management plans, timberland conversions permits; Vegetation Management Program projects; California Forest Improvement Program projects; grant-funded projects (Urban and Community Forestry, California Climate Initiative, etc.); demonstration state forest projects; fire prevention projects; capital outlay projects; management plans; archaeological test excavations, etc.)
(2) Training activities that may affect the environment.
(3) Fire suppression activities.

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.

Cultural Resource means a wide variety of pre-historic and historic resources including archaeological sites, isolated artifacts, objects, features, places where religious, ceremonial or resource gathering and utilization occur, cultural landscapes, sacred places, records, manuscripts, historical sites, traditional cultural properties, historical resources, and historic properties. It includes all forms of archaeological, historical, and traditional cultural properties, regardless of significance, as well as tribal cultural resources. It includes all of the material and locations contained in “tribal cultural resource,” “unique archaeological resource,” “nonunique archaeological resource,” “historical resource,” and “significant archaeological or historical site” (Public Resources Code §§ 5020.1(j), 21074, 21083.2(g)-(h), 21084.1, California Code of Regulations §§ 895.1 and 15064.5(a)).

Native Americans means those individuals, groups and organizations that fall within the following:

California Native American tribe means a Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004 (Senate Bill 18) pursuant to Public Resources Code § 21073.

Native Americans means the Native American Heritage Commission and those local Native American tribal groups and individuals to be notified or consulted pursuant to the Forest Practice Rules as defined in the Native American Contact List pursuant to Title 14 California Code of Regulations § 895.1.

Native American Contact List means the list that identifies those Native Americans that must be notified or consulted pursuant to the Forest Practice Rules. [CAL FIRE] shall maintain this list utilizing information and advice provided by the Native American Heritage Commission (NAHC). The list shall identify the appropriate contacts to be notified or consulted during preparation or review of Timber Harvesting Plans. The list shall be organized by counties or portions of counties and shall include all local federally recognized tribal governments. It shall also include other California Native American organizations or individuals that [CAL FIRE] places
on the list based upon demonstrated knowledge concerning the location of archaeological or cultural resources within California. The NAHC shall also be included as a required contact for each county on the list to enable the NAHC to complete a check of their Sacred Lands File which is authorized by [Public Resources Code] §§ 5097.94(a) and 5097.95. The list shall be posted on [CAL FIRE’s] internet site to make it readily available to [registered professional foresters] and others needing the list to comply with these rules. The list shall also be available by mail through written request to the appropriate CAL FIRE Review Team Offices. At least twice annually, [CAL FIRE] shall update the list to provide the most current information. Each update will reflect a new revision date, so users of the list may identify which version of the list they were using.

**Roles and Responsibilities**

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<tr>
<th>Roles</th>
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| **Director**                            | • Works with tribes, in cooperation with the Native American Heritage Commission, to achieve the intended results of this policy, both directly and through delegation to executive level staff.  
• Designates a Tribal Liaison, who will have day-to-day responsibility for ensuring implementation of this policy. |
| **Deputy Director for Resource Management** | • Lead responsibility for the development and implementation of policy regarding issues impacting tribal communities.  
• Coordinates activities of appointed committees should they be appointed by the Director. |
| **Assistant Deputy Director**           | • Lead responsibility to ensure landowner assistance and other related programs include tribal entities to the extent feasible and consistent with statute and regulation.  
• Provides day-to-day supervision for the Tribal Liaison. |
<p>| <strong>Assistant Deputy Director, Forest Practice</strong> | • Lead responsibility to ensure adequate consultation with tribal entities and development of necessary mitigation during the review of timber harvesting projects pursuant to the Z’-Berg-Nejedly Forest Practice Act and the Board of Forestry and Fire Protection regulations. |</p>
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<tr>
<td><strong>Assistant Deputy Director for Cooperative Fire Protection, Training, and Safety</strong></td>
<td>• Lead responsibility coordinating Fire Protection Reimbursement Agreements.</td>
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</table>
| **Assistant Deputy Director for Technical Services**      | • Lead responsibility for CAL FIRE capital outlay projects.  
• Ensures this policy is followed as a part of the development and implementation of such projects.                                                                                                                                                                                                                       |
| **Tribal Liaison**                                       | • Represents the Director on all matters associated with tribal relations.  
• Reports to the Assistant Deputy Director for Resource Protection and Improvement, unless otherwise directed.  
• Lead responsibility for ensuring conformance with this policy for actions other than those subject to the Forest Practice Act.  
• Oversees archaeology program areas and delivery of services.  
• Staffs or delegates staffing of Director-appointed committees, if any.  
• Oversees tribal relations training for Department managers and personnel.  
• Oversees training for external stakeholders for the protection of cultural resources on Departmental projects and projects on which CAL FIRE is the lead agency. |
| **Senior and Associate State Archaeologists**             | • Lead responsibility for project review to ensure compliance with federal and state law.  
• Responsible for federal and state reporting requirements relative to protection of cultural resources.  
• Perform review of work done by external consultants.  
• Conduct of site reviews and surveys for Departmental projects, as appropriate.                                                                                                                                                                                                  |
| **Regional Resource Managers, Forestry and Fire Protection Administrators** | • Lead responsibility for providing continuity of policy implementation at the Regional level, to the extent feasible given local needs.  
• Responsible for ensuring that the Region Chief, Assistant Region Chief, Staff and Unit Chiefs are familiar with Departmental policy, tribal laws, existing agreements and contracts with local tribes, and any impediments to |
Departmental authorities and capability to enter into agreements with tribes.

| **Unit Chiefs**                      | • Lead responsibility for development of Fire Protection Reimbursement Agreements.  
|                                      | • With involvement of Departmental archaeological staff, lead responsibility for:  
|                                      |   o Protection of cultural resources during capital outlay projects and other local Unit projects.  
|                                      |   o Development of local cultural resource protection strategies to be employed during fire suppression activities. |

| **Native American Advisory Council** | • Advise the Director on Native American issues and concerns.  
|                                      | • Assist CAL FIRE in establishing a cooperative and meaningful relationship with tribes.  
|                                      | • Represent Native American interests statewide. |

**RELATED FORM(S)/LINK(S)**

- [CAL FIRE Archaeology Program Internet Page](#)

**AUTHORITY**

- [Public Resources Code](#)
- [Government Code](#)
- [Title 14 California Code of Regulations](#)
- [Executive Order](#)
- [Natural Resources Agency Consultation Policy](#)
- [Governor’s Office Consultation Policy](#)

**REFERENCE(S)**

None

**SUBJECT MATTER EXPERT(S)**

Director; Deputy Director, Resource Management; Assistant Deputy Director, Resource Protection and Improvement; Assistant Deputy Director, Forest Practice; Assistant Deputy Director, Cooperative Fire Protection, Training, and Safety; Assistant Deputy Director, Technical Services; Tribal Liaison; Senior and Associate State Archaeologists;
Regional Resource Managers; Forestry and Fire Protection Administrators; Unit Chiefs; Native American Advisory Council

**REVISION DATE**

August 2018
OVERVIEW

Introduction and Legal Authority
CAL FIRE’s mission is to serve and safeguard the people and protect the property and resources of California, including cultural resources. CAL FIRE will act in a knowledgeable, sensitive, and respectful manner when working with tribes to protect cultural resources.

When departmental actions (projects, policies, procedures, etc.) are in the proposal stage, preplanning and consultation with the culturally-affiliated tribes should be part of the planning process. Tribal engagement in planning, implementation, monitoring and adaptation shall be included in program and project design and implementation, fire suppression, fire planning and agreements, etc., when such involvement will facilitate protection of cultural resources, tribal rights, or tribal trust resources. Where there are regulatory, statutory or procedural impediments limiting CAL FIRE’s ability to work effectively and consistently with tribal communities, CAL FIRE will work with the tribes to resolve such impediments.

CAL FIRE is required by law and regulation (Public Resources Code §§ 21080.3.1, 21080.3.2, and 21104 and Title 14 California Code of Regulations §§ 15064.5, 929.1(a)(2) and 929.1(b)) to consult with California Native American tribes and Native Americans during the development and review of CAL FIRE projects. Tribal groups and individuals identified on the Native American Heritage Commission’s California Native American Tribal Contact list and on CAL FIRE’s Native American Contact List are the appropriate local points of tribal contact, unless otherwise specified.

Consultation Procedures Statement
CAL FIRE shall consult with tribes for any CAL FIRE action that has the potential to cause adverse impacts or significant effects to a cultural resource. Consultation shall proceed pursuant to current applicable statutory and regulatory law, and, for the purposes of this policy, shall have the same meaning as provided in Government Code 65560 and 65562.5:

**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.
Definition of Consultation
Consultation means communicating early and often on CAL FIRE actions whether the activity is an emergency or planned event. It is also an opportunity for CAL FIRE to discuss specific cultural resources that may be impacted by a proposed project on a government-to-government basis, when appropriate. Consultation’s purpose is to give tribes and tribal communities an opportunity to discuss their interests and concerns with a lead agency. In this relationship, CAL FIRE’s obligation is to seek and consider the views of participating tribes. This means CAL FIRE must make a good faith effort to solicit the views of Native American individuals and groups and factor these views into agency decisions. Thus, the consultation requirement gives a tribe the ability to advocate for the desired outcome of their tribal community regarding relevant CAL FIRE actions.

Receipt of Native American written or oral comments, views, and concerns while projects are in the planning phase is a key objective of consultation. Where not a requirement of regulations, registered professional foresters and CAL FIRE project proponents are encouraged to correspond and provide maps of the location of the proposed projects and other planning, implementation, monitoring and adaptation efforts. Direct contacts through telephone calls, email correspondence and face-to-face meetings facilitate the development of mutual trust and encourage the exchange of information. Such meetings and correspondence are strongly encouraged, as a follow-up to written notifications, as appropriate.

Critical to successful consultation is listening to, and actively considering, the views expressed by tribes. A principal goal of consultation is to provide Native Americans a reasonable opportunity to express their views on CAL FIRE programs, projects and response actions. Although face-to-face meetings are not required for every project action, the value of personal contact should not be overlooked.

The CAL FIRE project proponent should recognize that in many instances, Native American people are being asked to volunteer their time to engage in the discussion. Accordingly, CAL FIRE should consider steps to overcome financial impediments that might prevent Indian tribes from effectively participating in the consultation process. These steps may include scheduling meetings in places and times that are convenient for the consulting parties.

When Native American people have concerns about a proposed CAL FIRE program, project or response action, CAL FIRE or the registered professional forester should investigate and consult. In those instances, telephone calls and face-to-face meetings (in an office or out at the project site) may lead to alignment of cultural values better when seeking agreement.
Existing procedures contained in *Archaeological Procedures for CAL FIRE Projects* and *CAL FIRE’s Assembly Bill 52 Archaeology Procedures and Environmental Document Considerations*, as well as previously-mentioned statute and regulation, shall guide consultation with Native Americans.

### Responsibilities and Actions

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| Tribal Liaison                                        | • Oversees archaeology program areas and delivery of services.  
• Oversees training for external stakeholders for the protection of cultural resources on Departmental projects or for projects on which CAL FIRE is the lead agency. |
| Senior and Associate State Archaeologists              | • Lead responsibility for project review to ensure compliance with federal and state law.  
• Responsible for federal and state reporting requirements relative to protection of cultural resources.  
• Perform review of work done by external consultants.  
• Conduct of site reviews and surveys for Department projects, as appropriate. |
| Unit Chiefs                                            | • Lead responsibility for development of Fire Protection Reimbursement Agreements.  
• With involvement of Departmental archaeological staff, lead responsibility for:  
  o Protection of cultural resources during capital outlay projects and other local Unit projects. |
Development of local cultural resource protection strategies to be employed during fire suppression activities.

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**REFERENCE(S)**

None

**SUBJECT MATTER EXPERT(S)**

Assistant Deputy Director, Resource Protection and Improvement; Assistant Deputy Director, Forest Practice; Tribal Liaison; Senior and Associate State Archaeologists; Unit Chiefs

**REVISION DATE**

August 2018