Charter and Operation Guides for the
California Department of Forestry and Fire Protection
Native American Advisory Council

Revised Date: January 10, 2018

The Director of the California Department of Forestry and Fire Protection (CAL FIRE) authorizes the creation of a Native American Advisory Council (NAAC) to advise the Director and Department on Native American issues. This charter and policy statement provides the NAAC with its purpose and operational guidelines.

Mission Statement:

The mission of the Native American Advisory Council is to assist the California Department of Forestry and Fire Protection in establishing a cooperative and meaningful relationship with California Native American tribes. A positive relationship will facilitate the Department’s work toward achieving its goals and objectives while protecting places of significance to California Native American tribes and actively involving tribes in all aspects of the Department’s responsibilities that affect California Native Americans.

Membership:

The NAAC shall consist of nine appointed voting members plus two non-voting agency officials. The agency officials or their designees shall attend NAAC meetings to provide support, information, and policy direction. The nine appointed members shall be Native Americans and shall represent Native American interests statewide. These members shall be appointed by the CAL FIRE Director to serve at his or her pleasure for a term not to exceed four years. A member may be re-appointed at the end of the four-year term.

CAL FIRE shall attempt to appoint members from within several different geographical areas across the state. CAL FIRE considers other types of representation by including members from federally recognized as well as non-recognized tribes to ensure statewide representation. CAL FIRE shall attempt to recruit members from key Native American groups known to have an interest in the Department’s programs, which might have members interested in serving on the council.

If an appointed member cannot attend a scheduled meeting, he or she shall designate an alternate to attend and shall notify CAL FIRE of the name of the alternate that will be attending the meeting. The alternate shall have the authority to vote. The two non-voting members shall include the Executive Secretary of the Native American Heritage Commission and the CAL FIRE Deputy Director for Resource Management. These agency officials may appoint designees to attend meetings in their absence.
Membership Expectations:

Appointed members of the NAAC are expected to make every effort to attend the scheduled meetings and participate in the actions that follow. Members that must miss a scheduled meeting are encouraged to select a designee to attend a meeting in the member’s absence. Members are expected to provide CAL FIRE with their current email address and telephone numbers to use for communications and to promptly notify CAL FIRE if these addresses or numbers change. CAL FIRE expects members to promptly respond to email and telephone communications from CAL FIRE and the NAAC chairperson.

Members are also expected to make efforts to communicate with other Native American groups and individuals throughout the geographic or demographic area the member represents. This communication shall notify Native American communities about the existence of the NAAC, shall collect information from them to bring to meetings, and shall report back following meetings. The nine NAAC members are intended to represent Native American interests throughout the State, not just within their own tribal group.

Chairperson and Vice Chairperson:

The NAAC, in consultation with CAL FIRE, shall designate a chairperson and vice-chairperson from the nine voting members to develop meeting agendas and preside over the meetings. The chairperson may appoint ad hoc committees to assist in the council’s work product and reports.

Meeting Frequency:

The NAAC shall meet as often as necessary, but at least twice per year. The optimum schedule is to hold at least three face-to-face meetings per year. Conference calls between NAAC members and CAL FIRE staff may occur to develop meeting agendas, assign tasks, and coordinate schedules for deliverables. Early in the calendar year, the NAAC shall schedule the entire year’s meeting dates in advance to enable members of the public to plan to attend.

Meeting Time and Location:

Some of the meetings shall be held at CAL FIRE’s Sacramento Headquarters, since this is a central location and meeting rooms are easily obtained at little or no cost. The NAAC will hold periodic meetings at locations throughout the State to encourage attendance from local Native American communities. Any meetings involving field visits or evaluations shall have prior approval of the CAL FIRE Director.

Public Notice:

NAAC meetings are subject to the Bagley-Keene Open Meeting Act (Government Code §§ 11120-11132).
Rules of Order:

The chairperson shall conduct the meetings in accordance with this charter and with Sturgis Standard Code of Parliamentary Procedure. Where conflicts exist between the two, the charter presides.

Quorum:

A quorum shall consist of a minimum of five voting members. If the meeting location has facilities to support members participating through telephone, a member participating by telephone may count in an assessment of quorum, as long as that member remains on the line.

Agenda:

The NAAC chairperson shall develop the agenda for meetings in consultation with CAL FIRE staff. The chairperson shall have final approval of meeting dates and agenda items.

Travel Expenses:

CAL FIRE staff shall prepare travel expense claims after each meeting based upon information provided by NAAC members and shall ensure travel reimbursement checks are mailed to members after they are issued. NAAC members shall consult with CAL FIRE to obtain the necessary guidance regarding travel reimbursement procedures.

Funding:

CAL FIRE shall establish an account to reimburse NAAC members for travel expenses within the per diem rates currently set for State employees. The total cost of these travel reimbursements shall not exceed the total account encumbered for NAAC travel expenses, unless authorized in advance by the CAL FIRE Director. CAL FIRE shall provide operating expenses for the conduct of meetings within the guidelines of the State Administrative Manual and applicable laws and regulations.

Council Goals and Objectives:

At the beginning of each calendar year, the NAAC shall develop a list of goals and objectives it seeks to accomplish during the year. This list shall be submitted to the CAL FIRE Director by March 1 of each year.

Council Staffing:

CAL FIRE will provide staffing assistance within the resources available to provide recording of minutes, with copies to the members, and to complete other administrative work needed to support the council. CAL FIRE staff shall contact NAAC members to mail the notice and agenda, and make arrangements to secure an appropriate meeting site.
Reporting:

The CAL FIRE Deputy Director of Resource Management or representative attending the meetings shall report issues, findings, and recommendations to the CAL FIRE Director. The NAAC shall submit an annual report to the Director that describes the accomplishments specified in the list of goals and objectives submitted earlier in the year. The annual report is due by January 30 of the following year. The NAAC may deliver periodic reports to the Board of Forestry and Fire Protection, as requested by the Director.

Approved by:

Ken Pimlott, Director
Department of Forestry and Fire Protection

Approval date: 1/12/18
CAL FIRE’s Native American Advisory Council Membership Roster
May 5, 2017

CAL FIRE’s Native American Advisory Council meets approximately two to four times each year to advise the CAL FIRE Director on Native American issues pertaining to CAL FIRE’s programs. Please contact the chairperson or the council member nearest you to provide information or comments for CAL FIRE. Information about the council is at http://calfire.ca.gov/resource_mgt/archaeology-index.

1. Ann Brierty
   San Manuel Band of Mission Indians
   26569 Community Center Drive
   Highland, CA 92346
   Office (909) 864-8933
   Cell (909) 649-1585
   abrierty@sanmanuel-nsn.gov
   Appointment Date: 2-17-17

2. Kevin Gaines
   Morongo Band of Mission Indians
   11581 Potrero Rd.
   Banning, CA 92220
   (951) 377-8186
   kgaines@morongo-nsn.gov
   Appointment Date: 2-17-17

3. Edward Hadfield
   Rincon Band of Luiseño Indians
   33485 Valley Center Rd.
   Valley Center, CA 92082
   Office (760) 297-2300 ext. 553
   Cell (760) 703-3655
   ehadfield@rincontribe.org
   Appointment Date: 2-17-17

4. Tim Hayden
   Yurok Tribe
   P.O. Box 1027
   Klamath, CA 95548
   Office (530) 629-3333 ext. 1704
   Cell (707) 498-8258
   thayden@yuroktribe.nsn.us
   Appointment Date: 2-17-17

5. Robert Smith
   Pala Band of Mission Indians
   35961 Pala-Temecula Road
   Pala, CA 92059
   (760) 801-5243
   R.Smith@palatribe.com
   Appointment Date: 4-21-17
6. Walt Lara
   Yurok Tribe
   P.O. Box 483
   Hoopa, CA 95546
   Home (530) 625-4666
   Cell (707) 499-6103
   waltlarasr@gmail.com
   Appointment Date: unknown
   Re-Appointed: 2-17-17

7. William Tripp
   Karuk Tribe
   P.O. Box 282
   Orleans, CA 95556
   Office (530) 627-3446
   btripp@karuk.us
   Appointment Date: 2-17-17

8. Gary Walker
   North Fork Rancheria of Mono Indians of California
   P.O. Box 929
   North Fork, CA 93643
   Office (559) 877-2461
   Cell (559) 760-5448
   gwalker@nfr-nsn.gov
   Appointment Date: 2-17-17

9. Allen Wright
   Sherwood Valley Rancheria of Pomo Indians
   190 Sherwood Hill Dr.
   Willits, CA 95490
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   Cell (707) 972-3870
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   Appointment Date: 2-17-17
CAL FIRE Archaeologists

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A Handy Guide
to
The Bagley-Keene Open Meeting Act 2004

California Attorney General’s Office
INTRODUCTION

The Bagley-Keene Open Meeting Act ("the Act" or "the Bagley-Keene Act"), set forth in Government Code sections 11120-11132, covers all state boards and commissions. Generally, it requires these bodies to publicly notice their meetings, prepare agendas, accept public testimony and conduct their meetings in public unless specifically authorized by the Act to meet in closed session. Following is a brief summary of the Act’s major provisions. Although we believe that this summary is a helpful road map, it is no substitute for consulting the actual language of the Act and the court cases and administrative opinions that interpret it.

If you wish to obtain additional copies of this pamphlet, they may be ordered or downloaded via the Attorney General’s Home Page, located on the World Wide Web at http://caag.state.ca.us. You may also write to the Attorney General’s Office, Public Inquiry Unit, P.O. Box 944255, Sacramento, CA 94244-2550 or call us at (800) 952-5225 (for callers within California), or (916) 322-3360 (for callers outside of California); the TTY/TDD telephone numbers are (800) 952-5548 (for callers within California), or (916) 324-5564 (for callers outside of California).

PURPOSE OF THE ACT

Operating under the requirements of the Act can sometimes be frustrating for both board members and staff. This results from the lack of efficiency built into the Act and the unnatural communication patterns brought about by compliance with its rules.

If efficiency were the top priority, the Legislature would create a department and then permit the department head to make decisions. However, when the Legislature creates a multimember board, it makes a different value judgment. Rather than striving strictly for efficiency, it concludes that there is a higher value to having a group of individuals with a variety of experiences, backgrounds and viewpoints come together to develop a consensus. Consensus is developed through debate, deliberation and give and take. This process can sometimes take a long time and is very different in character than the individual-decision-maker model.

Although some individual decision-makers follow a consensus-building model in the way that they make decisions, they’re not required to do so. When the Legislature creates a multimember body, it is mandating that the government go through this consensus building process.

When the Legislature enacted the Bagley-Keene Act, it imposed still another value judgment on the governmental process. In effect, the Legislature said that when a body sits down to develop its consensus, there needs to be a seat at the table reserved for the public. (§ 11120.) By reserving this place for the public, the Legislature has provided the public with the ability to monitor and participate in the decision-making process. If the body were permitted to meet in secret, the public’s role in the decision-making process would be negated. Therefore, absent a specific reason to keep

1All statutory references are to the Government Code.
the public out of the meeting, the public should be allowed to monitor and participate in the decision-making process.

If one accepts the philosophy behind the creation of a multimember body and the reservation of a seat at the table for the public, many of the particular rules that exist in the Bagley-Keene Act become much easier to accept and understand. Simply put, some efficiency is sacrificed for the benefits of greater public participation in government.

**BODIES COVERED BY THE ACT: General Rule**

The general rule for determining whether a body is covered by the Act involves a two part test (§ 11121(a)):

First, the Act covers multimember bodies. A multimember body is two or more people. Examples of multimember bodies are: state boards, commissions, committees, panels, and councils. Second, the body must be created by statute or required by law to conduct official meetings. If a body is created by statute, it is covered by the Act regardless of whether it is decision-making or advisory.

- **Advisory Bodies**

The Act governs two types of advisory bodies: (1) those advisory bodies created by the Legislature and (2) those advisory bodies having three or more members that are created by formal action of another body. (§11121(c).) If an advisory body created by formal action of another body has only two members, it is not covered by the Bagley-Keene Act. Accordingly, that body can do its business without worrying about the notice and open meeting requirements of the Act. However, if it consists of three people, then it would qualify as an advisory committee subject to the requirements of the Act.

When a body authorizes or directs an individual to create a new body, that body is deemed to have been created by formal action of the parent body even if the individual makes all decisions regarding composition of the committee. The same result would apply where the individual states an intention to create an advisory body but seeks approval or ratification of that decision by the body.

Finally, the body will probably be deemed to have acted by formal action whenever the chair of the body, acting in his or her official capacity, creates an advisory committee. Ultimately, unless the advisory committee is created by staff or an individual board member, independent of the body’s authorization or desires, it probably should be viewed as having been created by formal action of the body.
Delegated Body

The critical issue for this type of body is whether the committee exercises some power that has been delegated to it by another body. If the body has been delegated the power to act, it is a delegated committee. (§ 11121(b).) A classic example is the executive committee that is given authority to act on behalf of the entire body between meetings. Such executive committees are delegated committees and are covered by the requirements of the Act.

There is no specific size requirement for the delegated body. However, to be a body, it still must be comprised of multiple members. Thus, a single individual is not a delegated body.

Commissions Created by the Governor

The Act specifically covers commissions created by executive order. (§ 11121(a).) That leaves open two potential issues for resolution with respect to this type of body. First, what’s an executive order as opposed to other exercises of power by the Governor? Second, when is a body a “commission” within the meaning of this provision? There is neither case law nor an Attorney General opinion addressing either of these issues in this context.

Body Determined by Membership

The next kind of body is determined by who serves on it. Under this provision, a body becomes a state body when a member of a state body, in his or her official capacity, serves as a representative on another body, either public or private, which is funded in whole or in part by the representative’s state body. (§ 11121(d).) It does not come up often, but the Act should be consulted whenever a member of one body sits as a representative on another body.

In summary, the foregoing are the general types of bodies that are defined as state bodies under the Bagley-Keene Act. As will be discussed below, these bodies are subject to the notice and open meeting requirements of the Act.

MEMBERS-TO-BE

The open meeting provisions of the Act basically apply to new members at the time of their election or appointment, even if they have not yet started to serve. (§ 11121.95.) The purpose of this provision is to prevent newly appointed members from meeting secretly among themselves or with holdover members of a body in sufficient numbers so as to constitute a quorum. The Act also requires bodies to provide their new members with a copy of the Act. (§ 11121.9.) We recommend that this Handy Guide be used to satisfy that requirement.
WHAT IS A MEETING?

The issue of what constitutes a meeting is one of the more troublesome and controversial issues under the Act. A meeting occurs when a quorum of a body convenes, either serially or all together, in one place, to address issues under the body’s jurisdiction. (§ 11122.5.) Obviously, a meeting would include a gathering where members were debating issues or voting on them. But a meeting also includes situations in which the body is merely receiving information. To the extent that a body receives information under circumstances where the public is deprived of the opportunity to monitor the information provided, and either agree with it or challenge it, the open-meeting process is deficient.

Typically, issues concerning the definition of a meeting arise in the context of informal gatherings such as study sessions or pre-meeting get-togethers. The study session historically arises from the body’s desire to study a subject prior to its placement on the body’s agenda. However, if a quorum is involved, the study session should be treated as a meeting under the Act. With respect to pre-meeting briefings, this office opined that staff briefings of the city council a half hour before the noticed city council meeting to discuss the items that would appear on the council’s meeting agenda were themselves meetings subject to open meeting laws. To the extent that a briefing is desirable, this office recommends that the executive officer prepare a briefing paper which would then be available to the members of the body, as well as, to the public.

Serial Meetings

The Act expressly prohibits the use of direct communication, personal intermediaries, or technological devices that are employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body outside of an open meeting. (§ 11122.5(b).) Typically, a serial meeting is a series of communications, each of which involves less than a quorum of the legislative body, but which taken as a whole involves a majority of the body’s members. For example, a chain of communications involving contact from member A to member B who then communicates with member C would constitute a serial meeting in the case of a five-person body. Similarly, when a person acts as the hub of a wheel (member A) and communicates individually with the various spokes (members B and C), a serial meeting has occurred. In addition, a serial meeting occurs when intermediaries for board members have a meeting to discuss issues. For example, when a representative of member A meets with representatives of members B and C to discuss an agenda item, the members have conducted a serial meeting through their representatives acting as intermediaries.

In the *Stockton Newspapers* case, the court concluded that a series of individual telephone calls between the agency attorney and the members of the body constituted a meeting. In that case, the attorney individually polled the members of the body for their approval on a real estate transaction. The court concluded that even though the meeting was conducted in a serial fashion, it nevertheless was a meeting for the purposes of the Act.

An executive officer may receive spontaneous input from board members on the agenda or on any other topic. But problems arise if there are systematic communications through which a quorum of the body acquires information or engages in debate, discussion, lobbying, or any other aspect of the deliberative process, either among themselves or between board members and the staff.

Although there are no cases directly on point, if an executive officer receives the same question on substantive matters addressed in an upcoming agenda from a quorum of the body, this office recommends that a memorandum addressing these issues be provided to the body and the public so they will receive the same information.

This office has opined that under the Brown Act (the counterpart to the Bagley-Keene Act which is applicable to local government bodies) that a majority of the board members of a local public agency may not e-mail each other to discuss current topics related to the body’s jurisdiction even if the e-mails are also sent to the secretary and chairperson of the agency, posted on the agency’s Internet website, and made available in printed form at the next public meeting of the board.

The prohibition applies only to communications employed by a quorum to develop a collective concurrence concerning action to be taken by the body. Conversations that advance or clarify a member’s understanding of an issue, or facilitate an agreement or compromise among members, or advance the ultimate resolution of an issue, are all examples of communications that contribute to the development of a concurrence as to action to be taken by the body. Accordingly, with respect to items that have been placed on an agenda or that are likely to be placed upon an agenda, members of state bodies should avoid serial communications of a substantive nature that involve a quorum of the body.

In conclusion, serial meeting issues will arise most commonly in connection with rotating staff briefings, telephone calls or e-mail communications among a quorum of board members. In these situations, part of the deliberative process by which information is received and processed, mulled over and discussed, is occurring without participation of the public.

Just remember, serial-meeting provisions basically mean that what the body can not do as a group it can not do through serial communications by a quorum of its members.

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4 Cal.Atty.Gen., Indexed Letter, No. IL 00-906 (February 20, 2001).
Contacts by the Public

One of the more difficult areas has to do with the rights of the public to contact individual members. For example, a communication from a member of the public to discuss an issue does not violate the Act. (§ 11122.5(c)(1).) The difficulty arises when the individual contacts a quorum of the body.

So long as the body does not solicit or orchestrate such contacts, they would not constitute a violation of the Bagley-Keene Act. Whether its good policy for a body to allow these individual contacts to occur is a different issue.

Social Gatherings

The Act exempts purely social situations from its coverage. (§ 11122.5(c)(5).) However, this construction is based on the premise that matters under the body’s jurisdiction will not be discussed or considered at the social occasion. It may be useful to remind board members to avoid “shop talk” at the social event. Typically, this is difficult because service on the body is their common bond.

Conferences and Retreats

Conferences are exempt from the Act’s coverage so long as they are open to the public and involve subject matter of general interest to persons or bodies in a given field. (§ 11122.5(c)(2).) While in attendance at a conference, members of a body should avoid private discussions with other members of their body about subjects that may be on an upcoming agenda. However, if the retreat or conference is designed to focus on the laws or issues of a particular body it would no be exempt under the Act.

Teleconference Meetings

The Act provides for audio or audio and visual teleconference meetings for the benefit of the public and the body. (§ 11123.) When a teleconference meeting is held, each site from which a member of the body participates must be accessible to the public. [Hence, a member cannot participate from his or her car, using a car phone or from his or her home, unless the home is open to the public for the duration of the meeting.] All proceedings must be audible and votes must be taken by rollcall. All other provisions of the Act also apply to teleconference meetings. For these reasons, we recommend that a properly equipped and accessible public building be utilized for teleconference meetings. This section does not prevent the body from providing additional locations from which the public may observe the proceedings or address the state body by electronic means.

NOTICE AND AGENDA REQUIREMENTS

The notice and agenda provisions require bodies to send the notice of its meetings to persons who have requested it. (§ 11125(a.) In addition, at least ten days prior to the meeting, bodies must
prepare an agenda of all items to be discussed or acted upon at the meeting. (§ 11125(b).) In practice, this usually translates to boards and commissions sending out the notice and agenda to all persons on their mailing lists. The notice needs to state the time and the place of the meeting and give the name, phone number and address of a contact person who can answer questions about the meeting and the agenda. (§ 11125(a).) The agenda needs to contain a brief description of each item to be transacted or discussed at the meeting, which as a general rule need not exceed 20 words in length. (§ 11125(b).)

The agenda items should be drafted to provide interested lay persons with enough information to allow them to decide whether to attend the meeting or to participate in that particular agenda item. Bodies should not label topics as “discussion” or “action” items unless they intend to be bound by such descriptions. Bodies should not schedule items for consideration at particular times, unless they assure that the items will not be considered prior to the appointed time.

The notice and agenda requirements apply to both open and closed meetings. There is a tendency to think that agendas need not be prepared for closed session items because the public cannot attend. But the public’s ability to monitor closed sessions directly depends upon the agenda requirement which tells the public what is going to be discussed.

REGULAR MEETINGS

The Act, itself, does not directly define the term “regular meeting.” Nevertheless, there are several references in the Act concerning regular meetings. By inference and interpretation, the regular meeting is a meeting of the body conducted under normal or ordinary circumstances. A regular meeting requires a 10-day notice. This simply means that at least 10 days prior to the meeting, notice of the meeting must be given along with an agenda that sufficiently describes the items of business to be transacted or discussed. (§§ 11125(a), 11125(b).) The notice for a meeting must also be posted on the Internet, and the web site address must be included on the written agenda. In addition, upon request by any person with a disability, the notice must be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the applicable federal rules and regulations. The notice must contain information regarding the manner in which and the deadline by which a request for any disability-related modification or accommodation, including auxiliary aids or services, may be made by a person requiring these aids or services in order to participate in the meeting.

In two special situations, items may be added to the agenda within the 10-day notice period, provided that they are added and notice is given no later than 48 hours prior to the meeting. (§ 11125.) The first such situation is where the body concludes that the topic it wishes to add would qualify for an emergency meeting as defined in the Act. (§ 11125.3(a)(1).) The second situation is where there is a need for immediate action and the need for action came to the attention of the body after the agenda was mailed in accordance with the 10-day notice requirement. (§ 11125.3(a)(2).) This second situation requires a two-thirds vote or a unanimous vote if two-thirds of the members are not present.
Changes made to the agenda under this section must be delivered to the members of the body and to national wires services at least 48 hours before the meeting and must be posted on the Internet as soon as practicable.

**SPECIAL MEETINGS**

A few years ago, special meetings were added to the Act to provide relief to agencies that, due to the occurrence of unforeseen events, had a need to meet on short notice and were hamstrung by the Act’s 10-day notice requirement. (§ 11125.4.) The special meeting requires that notice be provided at least 48 hours before the meeting to the members of the body and all national wire services, along with posting on the Internet.

The purposes for which a body can call a special meeting are quite limited. Examples include pending litigation, legislation, licencing matters and certain personnel actions. At the commencement of the special meeting, the body is required to make a finding that the 10-day notice requirement would impose a substantial hardship on the body or that immediate action is required to protect the public interest and must provide a factual basis for the finding. The finding must be adopted by two-thirds vote and must contain articulable facts that support it. If all of these requirements are not followed, then the body can not convene the special meeting and the meeting must be adjourned.

**EMERGENCY MEETINGS**

The Act provides for emergency meetings in rare instances when there exists a crippling disaster or a work stoppage that would severely impair public health and safety. (§ 11125.5.) An emergency meeting requires a one-hour notice to the media and must be held in open session. The Act also sets forth a variety of other technical procedural requirements that must be satisfied.

**PUBLIC PARTICIPATION**

Since one of the purposes of the Act is to protect and serve the interests of the general public to monitor and participate in meetings of state bodies, bodies covered by the Act are prohibited from imposing any conditions on attendance at a meeting. (§ 11124.) For example, while the Act does not prohibit use of a sign-in sheet, notice must be clearly given that signing-in is voluntary and not a pre-requisite to either attending the meeting or speaking at the meeting. On the other hand, security measures that require identification in order to gain admittance to a government building are permitted so long as security personnel do not share the information with the body.

In addition, members of the public are entitled to record and to broadcast (audio and/or video) the meetings, unless to do so would constitute a persistent disruption. (§ 11124.1.)
To ensure public participation, the Legislature expressly afforded an opportunity to the public to speak or otherwise participate at meetings, either before or during the consideration of each agenda item. (§11125.7.) The Legislature also provided that at any meeting the body can elect to consider comments from the public on any matter under the body’s jurisdiction. And while the body cannot act on any matter not included on the agenda, it can schedule issues raised by the public for consideration at future meetings. Public comment protected by the Act includes criticism of the programs, policies and officials of the state body.

ACCESS TO RECORDS

Under the Act, the public is entitled to have access to the records of the body. (§ 11125.1.) In general, a record includes any form of writing. When materials are provided to a majority of the body either before or during the meeting, they must also be made available to the public without delay, unless the confidentiality of such materials is otherwise protected. Any records provided to the public, must be available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the applicable federal rules and regulations, upon request by a person with a disability.

Notwithstanding the foregoing, the Act makes Government Code section 6254, the most comprehensive exemption under the California Public Records Act, applicable to records provided to the body. That is, if the record that is being provided to the board members is a record that is otherwise exempt from disclosure under section 6254 of the Government Code, then the record need not be disclosed to members of the public. (§ 11125.1(a).) However, the public interest balancing test, set forth in Government Code section 6255, is expressly made inapplicable to records provided to members of the body.

If an agency has received a request for records, the Public Records Act allows the agency to charge for their duplication. (§ 11125.1(c).) Please be aware that the Public Records Act limits the amount that can be charged to the direct cost of duplication. This has been interpreted to mean a pro-rata share of the equipment cost and probably a pro-rata share of the employee cost in order to make the copies. It does not include anything other than the mere reproduction of the records. (See,§ 6253.9 for special rules concerning computer records.) Accordingly, an agency may not recover for the costs of retrieving or redacting a record.

ACCESSIBILITY OF MEETING LOCATIONS

The Act requires that the place and manner of the meeting be nondiscriminatory. (§ 11131.) As such, the body cannot discriminate on the basis of race, religion, national origin, etc. The meeting site must also be accessible to the disabled. Furthermore, the agency may not charge a fee for attendance at a meeting governed by the Act.
CLOSED SESSIONS

Although, as a general rule, all items placed on an agenda must be addressed in open session, the Legislature has allowed closed sessions in very limited circumstances, which will be discussed in detail below. Closed sessions may be held legally only if the body complies with certain procedural requirements. (§ 11126.3)

As part of the required general procedures, the closed session must be listed on the meeting agenda and properly noticed. (§ 11125(b).) Prior to convening into closed session, the body must publically announce those issues that will be considered in closed session. (§ 11126.3.) This can be done by a reference to the item as properly listed on the agenda. In addition, the agenda should cite the statutory authority or provision of the Act which authorizes the particular closed session. (§11125(b).) After the closed session has been completed, the body is required to reconvene in public. (§ 11126.3(f.) However, the body is required to make a report only where the body makes a decision to hire or fire an individual. (§ 11125.2.) Bodies under the Bagley-Keene Act are required to keep minutes of their closed sessions. (§ 11126.1.) Under the Act, these minutes are confidential, and are disclosable only to the board itself or to a reviewing court.

Courts have narrowly construed the Act’s closed-session exceptions. For example, voting by secret ballot at an open-meeting is considered to be an improper closed session. Furthermore, closed sessions may be improperly convened if they are attended by persons other than those directly involved in the closed session as part of their official duties.

Personnel Exception

The personnel exception generally applies only to employees. (§ 11126(a) and (b).) However, a body’s appointment pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution (usually the body’s executive director) has been designated an employee for purposes of the personnel exception. On the other hand, under the Act, members of the body are not to be considered employees, and there exists no personnel exception or other closed session vehicle for board members to deal with issues that may arise between them. Board elections, team building exercises, and efforts to address personality problems that may arise between members of the board, cannot be handled in closed session.

Only certain categories of subject matter may be considered at a closed session authorized under the personnel exception. (§ 11126(a)(1).) The purpose of the personnel exception is to protect the privacy of the employee, and to allow the board members to speak candidly. It can be used to consider appointments, employment, evaluation of performance, discipline or dismissal, as well as to hear charges or complaints about an employee’s actions. Although the personnel exception is appropriate for discussion of an employee’s competence or qualifications for appointment or employment, we do not think that discussion of employee compensation may be conducted in closed
session in light of an appellate court decision interpreting a similar exception in the Brown Act, (the counterpart to the Bagley-Keene Act which is applicable to local government bodies).5

The Act requires compliance with specific procedures when the body addresses a complaint leveled against an employee by a third person or initiates a disciplinary action against an employee. Under either circumstance, the Act requires 24-hour written notice to the employee. (§ 11126(a)(2).) Failure to provide such notice voids any action taken in closed session.

Upon receiving notice, the employee has the right to insist that the matter be heard in public session. (§ 11126(a)(2).) However, the opposite is not true. Under the Act, an employee has no right to have the matter heard in closed session. If the body decides to hold an open session, the Bagley-Keene Act does not provide any other option for the employee. Considerations, such as the employee’s right to privacy, are not addressed under the Bagley-Keene Act.

If an employee asserts his or her right to have the personnel matter addressed in open session, the body must present the issues and information/evidence concerning the employee’s performance or conduct in the open session. However, the body is still entitled to conduct its deliberations in closed session. (§ 11126(a)(4).)

- **Pending Litigation Exception**

The purpose of the pending litigation exception is to permit the agency to confer with its attorney in circumstances where, if that conversation were to occur in open session, it would prejudice the position of the agency in the litigation. (§ 11126(e)(1).) The term “litigation” refers to an adjudicatory proceeding that is held in either a judicial or an administrative forum. (§11126(e)(2)(c)(iii).) For purposes of the Act, litigation is “pending” in three basic situations. (§11126(e)(2).) First, where the agency is a party to existing litigation. Secondly, where under existing facts and circumstances, the agency has substantial exposure to litigation. And thirdly, where the body is meeting for the purpose of determining whether to initiate litigation. All of these situations constitute pending litigation under the exception.

For purposes of the Bagley-Keene Act, the pending litigation exception constitutes the exclusive expression of the attorney-client privilege. (§ 11126(e)(2).) In general, this means that independent statutes and case law that deal with attorney-client privilege issues do not apply to interpretations of the pending litigation provision of the Bagley-Keene Act. Accordingly, the specific language of the Act must be consulted to determine what is authorized for discussion in closed session.

Because the purpose of the closed session exception is to confer with legal counsel, the attorney must be present during the entire closed session devoted to the pending litigation. The Act’s pending litigation exception covers both the receipt of advice from counsel and the making of

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litigation decisions (e.g., whether to file an action, and if so, what approach should be taken, whether settlement should be considered, and if so, what the settlement terms should be.

What happens in a situation where a body desires legal advice from counsel, but the Act’s pending litigation exception does not apply? In such a case, legal counsel can either (1) provide the legal advice orally and discuss it in open session; or (2) deliver a one-way legal advice memorandum to the board members. The memorandum would constitute a record containing an attorney-client privileged communication and would be protected from disclosure under section 6254(k) of the Public Records Act. (11125.1(a).) However, when the board members receive that memorandum, they may discuss it only in open session, unless there is a specific exception that applies which allows them to consider it in closed session.6

- **Deliberations Exception**

The purpose of the deliberations exception is to permit a body to deliberate on decisions in a proceeding under the Administrative Procedures Act, or under similar provisions of law, in closed session. (§ 11126(c)(3).)

- **Real Property Exception**

Under the Act, the real-property exception provides that the body can, in closed session, advise its negotiator in situations involving real estate transactions and in negotiations regarding price and terms of payment. (§ 11126(c)(7).) However, before meeting in closed session, the body must identify the specific parcel in question and the party with whom it is negotiating. Again, the Act requires that the body properly notice its intent to hold a closed session and to cite the applicable authority enabling it to do so.

- **Security Exception**

A state body may, upon a two-thirds vote of those present, conduct a closed session to consider matters posing a potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could adversely affect their safety or security. (11126(c)(18).) After such a closed session, the state body must reconvene in open session prior to adjournment and report that a closed session was held along with a description of the general nature of the matters considered, and whether any action was taken in closed session.

Whenever a state body utilizes this closed session exception, it must also provide specific written notice to the Legislative Analyst who must retain this information for at least four years. (11126(c)(18)(D).) This closed session exception will sunset in 2006. (11126(h).)

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REMEDIES FOR VIOLATIONS

The Act provides for remedies and penalties in situations where violations have allegedly occurred. Depending on the particular circumstances, the decision of the body may be overturned (§ 11130.3), violations may be stopped or prevented (§ 11130), costs and fees may be awarded (§11130.5), and in certain situations, there may be criminal misdemeanor penalties imposed as well. (§ 11130.7.)

Within 90 days of a decision or action of the body, any interested person may file suit alleging a violation of the Act and seeking to overturn the decision or action. Among other things, such suit may allege an unauthorized closed session or an improperly noticed meeting. Although the body is permitted to cure and correct a violation so as to avoid having its decision overturned, this can be much like trying to put toothpaste back in the tube. If possible, the body should try to return to a point prior to when the violation occurred and then proceed properly. For example, if the violation involves improper notice, we recommend that the body invalidate its decision, provide proper notice, and start the process over. To the extent that information has been received, statements made, or discussions have taken place, we recommend that the body include all of this on the record to ensure that everyone is aware of these events and has had an opportunity to respond.

In certain situations where a body has violated the Act, the decision can not be set aside or overturned; namely, where the action taken concerns the issuance of bonds, the entering into contracts where there has been detrimental reliance, the collection of taxes, and, in situations where there has been substantial compliance with the requirements of the Act. (11130.3(b).)

Another remedy in dealing with a violation of the Act involves filing a lawsuit to stop or prevent future violations of the Act. (§ 11130.) In general, these legal actions are filed as injunctions, writs of mandates, or suits for declaratory relief. The Legislature has also authorized the Attorney General, the District Attorney or any other interested person to use these remedies to seek judicial redress for past violations of the Act.

A prevailing plaintiff may recover the costs of suit and attorney’s fees from the body (not individual members). (§ 11130.5.) On the other hand, if the body prevails, it may recover attorney’s fees and costs only if the plaintiff’s suit was clearly frivolous and totally without merit.

The Act provides for misdemeanor penalties against individual members of the body if the member attends a meeting in violation of the Act with the intent to deprive the public of information to which he or she knows, or has reason to know, the public is entitled to receive. (§ 11130.7.)
# THE BAGLEY-KEENE OPEN MEETING ACT

Government Code Sections 11120-11132  
(January 2004)

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11120. It is the public policy of this state that public agencies exist to aid in the conduct of the people’s business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

§ 11121. State body

11121. As used in this article, “state body” means each of the following:

(a) Every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.

(b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.

(c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.

(d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.
§ 11121.1. State body; exceptions

11121.1. As used in this article, “state body” does not include any of the following:

(a) State agencies provided for in Article VI of the California Constitution.

(b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).

(d) State agencies when they are conducting proceedings pursuant to Section 3596.

(e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.

(f) State agencies provided for in Section 11770.5 of the Insurance Code.

(g) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.

§ 11121.9. Requirement to provide law to members

11121.9. Each state body shall provide a copy of this article to each member of the state body upon his or her appointment to membership or assumption of office.

§ 11121.95. Application to persons who have not assumed office

11121.95. Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office.

§ 11122. Action taken; defined

11122. As used in this article “action taken” means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action.
§ 11122.5. Meeting defined; exceptions

11122.5. (a) As used in this article, “meeting” includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b) Except as authorized pursuant to Section 11123, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body is prohibited.

(c) The prohibitions of this article do not apply to any of the following:

1. Individual contacts or conversations between a member of a state body and any other person.
2. The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body. This paragraph is not intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.
3. The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.
4. The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.
5. The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.
6. The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, provided that the members of the state body who are not members of the standing committee attend only as observers.
§ 11123. Requirement for open meetings; teleconference meetings

11123. (a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, “teleconference” means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.
§ 11123.1. Compliance with the ADA

11123.1. All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

§ 11124. No conditions for attending meetings

11124. No person shall be required, as a condition to attendance at a meeting of a state body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance. If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

§ 11124.1. Right to record meetings

11124.1. (a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the taping or recording. Any inspection of an audio or video tape recording shall be provided without charge on an audio or video tape player made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

§ 11125. Required notice

11125. (a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.
(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body’s meeting is announced during the open and public state body’s meeting, and provided that the advisory body’s meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(d) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body’s discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(e) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

§ 11125.1. Agenda; writings provided to body; public records

11125.1. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the
meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are distributed to members of the state body by board staff or individual members prior to or during a meeting shall be:

1. Made available for public inspection at that meeting.
2. Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

1. Made available for public inspection at that meeting.
2. Distributed to all persons who request or have requested copies of these writings.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public’s right to inspect any record required to be disclosed by that act, or to limit the public’s right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) “Writing” for purposes of this section means “writing” as defined under Section 6252.
§ 11125.2. Announcement of personnel action

11125.2. Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.

§ 11125.3. Exception to agenda requirements

11125.3. (a) Notwithstanding Section 11125, a state body may take action on items of business not appearing on the posted agenda under any of the conditions stated below:

(1) Upon a determination by a majority vote of the state body that an emergency situation exists, as defined in Section 11125.5.

(2) Upon a determination by a two-thirds vote of the state body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there exists a need to take immediate action and that the need for action came to the attention of the state body subsequent to the agenda being posted as specified in Section 11125.

(b) Notice of the additional item to be considered shall be provided to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after a determination of the need to consider the item is made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet as soon as is practicable after the decision to consider additional items at a meeting has been made.

§ 11125.4. Special meetings

11125.4. (a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes where compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider “pending litigation” as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.
(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the Internet site where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present. The finding shall be made available on the Internet. Failure to adopt the finding terminates the meeting.

§ 11125.5. Emergency meetings

11125.5. (a) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4.
(b) For purposes of this section, “emergency situation” means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting:

1. Work stoppage or other activity that severely impairs public health or safety, or both.
2. Crippling disaster that severely impairs public health or safety, or both.

(c) However, newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. Notice shall also be made available on the Internet as soon as is practicable after the decision to call the emergency meeting has been made. If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(d) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place, and also made available on the Internet for a minimum of 10 days, as soon after the meeting as possible.

§ 11125.6. Emergency meetings; Fish and Game Commission

11125.6. (a) An emergency meeting may be called at any time by the president of the Fish and Game Commission or by a majority of the members of the commission to consider an appeal of a closure of or restriction in a fishery adopted pursuant to Section 7710 of the Fish and Game Code. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of an established fishery, the commission may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4 if the delay necessitated by providing the 10-day notice of a public meeting required by Section 11125 or the 48-hour notice required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state.

(b) At the commencement of an emergency meeting called pursuant to this section, the commission shall make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 or 48 hours prior to a meeting as required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state. The finding shall set forth the specific facts that
constitute the impact to the economic benefits of the fishery or the sustainability of the fishery. The finding shall be adopted by a vote of at least four members of the commission, or, if less than four of the members are present, a unanimous vote of those members present. Failure to adopt the finding shall terminate the meeting.

(c) Newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the commission, or a designee thereof, one hour prior to the emergency meeting by telephone.

(d) The minutes of an emergency meeting called pursuant to this section, a list of persons who the president of the commission, or a designee thereof, notified or attempted to notify, a copy of the rollecall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

§ 11125.7   Opportunity for public to speak at meeting

11125.7. (a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body’s discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee’s consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public, provided, however, that no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(d) This section is not applicable to closed sessions held pursuant to Section 11126.

(e) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.
(f) This section is not applicable to hearings conducted by the State Board of Control pursuant to Sections 13963 and 13963.1.

(g) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission’s consideration of the item.

§ 11125.8. Closed session; Board of Control; crime victims

11125.8. (a) Notwithstanding Section 11131.5, in any hearing that the State Board of Control conducts pursuant to Section 13963.1 and that the applicant or applicant’s representative does not request be open to the public, no notice, agenda, announcement, or report required under this article need identify the applicant.

(b) In any hearing that the board conducts pursuant to Section 13963.1 and that the applicant or applicant’s representative does not request be open to the public, the board shall disclose that the hearing is being held pursuant to Section 13963.1. That disclosure shall be deemed to satisfy the requirements of subdivision (a) of Section 11126.3.

§ 11125.9. Regional water quality control boards; additional notice requirements

11125.9. Regional water quality control boards shall comply with the notification guidelines in Section 11125 and, in addition, shall do both of the following:

(a) Notify, in writing, all clerks of the city councils and county boards of supervisors within the regional board’s jurisdiction of any and all board hearings at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. Each clerk, upon receipt of the notification of a board hearing, shall distribute the notice to all members of the respective city council or board of supervisors within the regional board’s jurisdiction.

(b) Notify, in writing, all newspapers with a circulation rate of at least 10,000 within the regional board’s jurisdiction of any and all board hearings, at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting.
§ 11126. Closed sessions

11126. (a)(1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, “employee” does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant’s qualifications for licensure and an inquiry specifically related to the state body’s enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.
(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, “lease” includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by
law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of the Revenue and Taxation Code.

(12) Prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 8 (commencing with Section 60850) of, Part 33 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the California Integrated Waste Management Board or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing of Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.
(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other provision of law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(d)(1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission’s jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.
(B)(i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, “litigation” includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent an administrative committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the California Board of Accountancy pursuant to
Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant’s qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers’ Retirement Board or the Board of Administration of the Public Employees’ Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers’ Retirement System or the Public Employees’ Retirement System.
(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2006, deletes or extends that date.

§ 11126.1. Minutes; availability

11126.1. The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. Such minute book may, but need not, consist of a recording of the closed session.

§ 11126.3. Required notice for closed sessions

11126.3. (a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. If the session is closed pursuant to paragraph (2) of subdivision (d) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the proceeding or disciplinary action contemplated. However, should the body determine that to do so would jeopardize the body’s ability to effectuate service of process upon one or more unserved parties if the proceeding or disciplinary action is commenced or that to do so would fail to protect the private economic and business reputation of the person or entity if the proceeding or disciplinary action is not commenced, then the state body shall notice that there will be a closed session and describe in general terms the purpose of that session. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body’s ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its disclosure.

(c) The disclosure shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the Education Code and of any order or notice required by Section 11129.
(d) If, after the agenda has been published in compliance with this article, any pending litigation (under subdivision (e) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed, unless the body states that to do so would jeopardize the body’s ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session.

(g) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcement.

§ 11126.5. Removal of disruptive persons

11126.5. In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting the state body conducting the meeting may order the meeting room cleared and continue in session. Nothing in this section shall prohibit the state body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting. Notwithstanding any other provision of law, only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section.

§ 11126.7. Charging fees prohibited

11126.7. No fees may be charged by a state body for providing a notice required by Section 11125 or for carrying out any provision of this article, except as specifically authorized pursuant to this article.
§ 11127. State bodies covered

11127. Each provision of this article shall apply to every state body unless the body is specifically excepted from that provision by law or is covered by any other conflicting provision of law.

§ 11128. Time restrictions for holding closed sessions

11128. Each closed session of a state body shall be held only during a regular or special meeting of the body.

§ 11128.5. Adjournment

11128.5. The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation.

§ 11129. Continuation of meeting; notice requirement

11129. Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the hearing was held within 24 hours after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

§ 11130. Legal remedies to stop or prohibit violations of act

11130. (a) The Attorney General, the district attorney, or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this article.
article to past actions or threatened future action by members of the state body or to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the state body to tape record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 11126, order the state body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

c. (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The tapes shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the tape is sought by the Attorney General, the district attorney, or the plaintiff in a civil action pursuant to this section or Section 11130.3 alleging that a violation of this article has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the tape recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in-camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this article, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.
§ 11130.3. Cause of action to void action

11130.3. (a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null and void under this section. Any action seeking such a judicial determination shall be commenced within 90 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.

(2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.

(3) The action taken was in substantial compliance with Sections 11123 and 11125.

(4) The action taken was in connection with the collection of any tax.

§ 11130.5. Court costs; attorney’s fees

11130.5. A court may award court costs and reasonable attorney’s fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a personal liability of any public officer or employee thereof. A court may award court costs and reasonable attorney’s fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

§ 11130.7. Violation; misdemeanor

11130.7. Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor.

§ 11131. Prohibited meeting facilities; discrimination

11131. No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. As used in this section,
“state agency” means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

§ 11131.5. Required notice; exemption for name of victim

11131.5. No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of crime, tortious sexual conduct, or child abuse unless the identity of the person has been publicly disclosed.

§ 11132. Closed sessions; express authorization required

11132. Except as expressly authorized by this article, no closed session may be held by any state body.
# Parliamentary Procedure at a Glance
*(Based on *The Standard Code of Parliamentary Procedure* by Alice Sturgis)*

## Principal Motions (Listed in Order of Precedence)

<table>
<thead>
<tr>
<th>TO DO THIS</th>
<th>YOU SAY THIS</th>
<th>May You Interrupt Speaker?</th>
<th>Must You Be Seconded?</th>
<th>Is The Motion Debatable?</th>
<th>What Vote is Required?</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Adjourn the meeting</em></td>
<td>&quot;I move the meeting be adjourned&quot;</td>
<td>NO</td>
<td>YES</td>
<td>YES (RESTRICTED)</td>
<td>MAJORITY</td>
</tr>
<tr>
<td><em>Recess the meeting</em></td>
<td>&quot;I move that the meeting be recessed until...&quot;</td>
<td>NO</td>
<td>YES</td>
<td>YES**</td>
<td>MAJORITY</td>
</tr>
<tr>
<td>Complain about noise, room temperature, etc.</td>
<td>&quot;I rise to the question of personal privilege&quot;</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NONE</td>
</tr>
<tr>
<td>Postpone temporarily (Table)</td>
<td>&quot;I move that this motion be tabled&quot;</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
<td>MAJORITY (REQUIRES TWO-THIRDS IF IT WOULD SUPPRESS)</td>
</tr>
<tr>
<td>End debate</td>
<td>&quot;I move to vote immediately&quot;</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
<td>TWO-THIRDS</td>
</tr>
<tr>
<td>*Limit debate</td>
<td>&quot;I move that each speaker be limited to a total of two minutes per discussion&quot;</td>
<td>NO</td>
<td>YES</td>
<td>YES**</td>
<td>TWO-THIRDS</td>
</tr>
<tr>
<td>*Postpone consideration of an item to a certain time</td>
<td>&quot;I move to postpone this item until 2:00pm...&quot;</td>
<td>NO</td>
<td>YES</td>
<td>YES**</td>
<td>MAJORITY</td>
</tr>
<tr>
<td><em>Have something referred to committee</em></td>
<td>&quot;I move this matter be referred to...&quot;</td>
<td>NO</td>
<td>YES</td>
<td>YES**</td>
<td>MAJORITY</td>
</tr>
<tr>
<td>*Amend a motion</td>
<td>&quot;I move to amend this motion by...&quot;</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>MAJORITY</td>
</tr>
<tr>
<td><em>Introduce business (the Main Motion)</em></td>
<td>&quot;I move that...&quot;</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>MAJORITY</td>
</tr>
<tr>
<td><em>Amend a previous action</em></td>
<td>&quot;I move to amend the motion that was adopted...&quot;</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>MAJORITY</td>
</tr>
<tr>
<td>Ratify action taken in absence of a quorum or in an emergency</td>
<td>&quot;I move to ratify the action taken by the Council...&quot;</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>MAJORITY</td>
</tr>
<tr>
<td>Reconsider</td>
<td>&quot;I move to reconsider...&quot;</td>
<td>YES</td>
<td>YES</td>
<td>YES**</td>
<td>MAJORITY</td>
</tr>
<tr>
<td>Rescind (a main motion)</td>
<td>&quot;I move to rescind the motion...&quot;</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>MAJORITY</td>
</tr>
<tr>
<td>Resume consideration of a tabled item</td>
<td>&quot;I move to resume consideration of...?&quot;</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
<td>MAJORITY</td>
</tr>
</tbody>
</table>

*Amendable
**Debatable if no Other Motion is Pending
## Parliamentary Procedure at a Glance
(Based on *The Standard Code of Parliamentary Procedure* by Alice Sturgis)

### Incidental Motions

<table>
<thead>
<tr>
<th>TO DO THIS</th>
<th>YOU SAY THIS</th>
<th>May You Interrupt Speaker?</th>
<th>Must You Be Seconded?</th>
<th>Is The Motion Debatable?</th>
<th>What Vote is Required?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vote on a ruling by the Chair</td>
<td>&quot;I appeal the Chair’s decision&quot;</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>MAJORITY</td>
</tr>
<tr>
<td>Consider something out of its scheduled order</td>
<td>&quot;I move to suspend the rules and consider…”</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
<td>TWO-THIRDS</td>
</tr>
<tr>
<td>To discuss an issue without restrictions of parliamentary rules</td>
<td>&quot;I move that we consider informally…”</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
<td>MAJORITY</td>
</tr>
<tr>
<td>To call attention to a violation of the rules or error in procedure, and to secure a ruling on the question raised</td>
<td>&quot;I rise to a point of order*&quot;</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NONE</td>
</tr>
<tr>
<td>To ask a question relating to procedure</td>
<td>&quot;I rise to a parliamentary inquiry&quot;</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NONE</td>
</tr>
<tr>
<td>To allow the maker of a motion to remove the motion from consideration</td>
<td>&quot;I move to withdraw my motion*&quot;</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NONE</td>
</tr>
<tr>
<td>To separate a multi-part question into individual questions for the purpose of voting</td>
<td>&quot;I move division of the question*&quot;</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NONE</td>
</tr>
<tr>
<td>To verify an indecisive voice or hand vote by requiring voters to rise and be counted</td>
<td>&quot;I move to divide the Assembly*&quot;</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NONE</td>
</tr>
</tbody>
</table>

*Amendable

**Debatable if no Other Motion is Pending
<table>
<thead>
<tr>
<th>PURPOSE</th>
<th>MOTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Present an idea for consideration and action</td>
<td>Main motion</td>
</tr>
<tr>
<td></td>
<td>Resolution</td>
</tr>
<tr>
<td></td>
<td>Consider informally</td>
</tr>
<tr>
<td>Improve a pending motion</td>
<td>Amend</td>
</tr>
<tr>
<td></td>
<td>Division of question</td>
</tr>
<tr>
<td>Regulate or cut off debate</td>
<td>Limit or extend debate</td>
</tr>
<tr>
<td></td>
<td>Close debate</td>
</tr>
<tr>
<td>Delay a decision</td>
<td>Refer to committee</td>
</tr>
<tr>
<td></td>
<td>Postpone to a certain time</td>
</tr>
<tr>
<td></td>
<td>Postpone temporarily</td>
</tr>
<tr>
<td></td>
<td>Recess</td>
</tr>
<tr>
<td></td>
<td>Adjourn</td>
</tr>
<tr>
<td>Suppress a proposal</td>
<td>Table</td>
</tr>
<tr>
<td></td>
<td>Withdraw a motion</td>
</tr>
<tr>
<td>Meet an emergency</td>
<td>Question of privilege</td>
</tr>
<tr>
<td></td>
<td>Suspend rules</td>
</tr>
<tr>
<td>Gain information on a pending motion</td>
<td>Parliamentary inquiry</td>
</tr>
<tr>
<td></td>
<td>Request for information</td>
</tr>
<tr>
<td></td>
<td>Request to ask member a question</td>
</tr>
<tr>
<td></td>
<td>Question of privilege</td>
</tr>
<tr>
<td>Question the decision of the presiding officer</td>
<td>Point of order</td>
</tr>
<tr>
<td></td>
<td>Appeal from decision of chair</td>
</tr>
<tr>
<td>Enforce rights and privileges</td>
<td>Division of assembly</td>
</tr>
<tr>
<td></td>
<td>Division of question</td>
</tr>
<tr>
<td></td>
<td>Parliamentary inquiry</td>
</tr>
<tr>
<td></td>
<td>Point of order</td>
</tr>
<tr>
<td></td>
<td>Appeal from decision of chair</td>
</tr>
<tr>
<td>Consider a question again</td>
<td>Resume consideration</td>
</tr>
<tr>
<td></td>
<td>Reconsider</td>
</tr>
<tr>
<td></td>
<td>Rescind</td>
</tr>
<tr>
<td></td>
<td>Renew a motion</td>
</tr>
<tr>
<td></td>
<td>Amend a previous action</td>
</tr>
<tr>
<td></td>
<td>Ratify</td>
</tr>
<tr>
<td>Change an action already taken</td>
<td>Reconsider</td>
</tr>
<tr>
<td></td>
<td>Rescind</td>
</tr>
<tr>
<td></td>
<td>Amend a previous action</td>
</tr>
<tr>
<td>Terminate a meeting</td>
<td>Adjourn</td>
</tr>
<tr>
<td></td>
<td>Recess</td>
</tr>
</tbody>
</table>

(From *The Standard Code of Parliamentary Procedure* by Alice Sturgis)
<table>
<thead>
<tr>
<th><strong>TO SUPPORT A MOTION</strong></th>
<th><strong>TO OPPOSE A MOTION</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Second it promptly and enthusiastically.</td>
<td>1. Speak against it as soon as possible. Raise questions; try to put proponents on the defensive.</td>
</tr>
<tr>
<td>2. Speak in favor of it as soon as possible.</td>
<td>2. Move to amend the motion so as to eliminate objectionable aspects.</td>
</tr>
<tr>
<td>3. Do your homework; know your facts; have handouts, charts, overhead projector slides, etc., if appropriate.</td>
<td>3. Move to amend the motion to adversely encumber it.</td>
</tr>
<tr>
<td>4. Move to amend motion, if necessary, to make it more acceptable to opponents.</td>
<td>4. Draft a more acceptable version and offer as amendment by substitution.</td>
</tr>
<tr>
<td>5. Vote against motion to table or to postpone, unless delay will strengthen your position.</td>
<td>5. Move to postpone to a subsequent meeting.</td>
</tr>
<tr>
<td>6. Move to recess or postpone, if you need time to marshal facts or work behind the scenes.</td>
<td>6. Move to refer to committee.</td>
</tr>
<tr>
<td>7. If defeat seems likely, move to refer to committee, if that would improve chances.</td>
<td>7. Move to table.</td>
</tr>
<tr>
<td>8. If defeat seems likely, move to divide question, if appropriate, to gain at least a partial victory.</td>
<td>8. Move to recess, if you need time to round up votes or obtain more facts.</td>
</tr>
<tr>
<td>9. Have available a copy of the organization's standing rules, its bylaws, and <em>The Standard Code of Parliamentary Procedure</em>, in case of a procedural dispute.</td>
<td>9. Question the presence of a quorum, if appropriate.</td>
</tr>
<tr>
<td>10. If motion is defeated, move to reconsider, if circumstances warrant it.</td>
<td>10. Move to adjourn.</td>
</tr>
<tr>
<td>11. If motion is defeated, consider reintroducing it at a subsequent meeting.</td>
<td>11. On a voice vote, vote emphatically.</td>
</tr>
<tr>
<td>12. If the motion is adopted, move to reconsider, if you might win a subsequent vote.</td>
<td>12. If the motion is adopted, consider trying to rescind it at a subsequent meeting.</td>
</tr>
<tr>
<td>13. If the motion is adopted, consider trying to rescind it at a subsequent meeting.</td>
<td>14. Have available a copy of the organization's standing rules, its bylaws, and <em>The Standard Code of Parliamentary Procedure</em>, in case of a procedural dispute.</td>
</tr>
</tbody>
</table>
Sturgis's Standard Code of Parliamentary Procedure

**Summary:**

**Basic Rules of Precedence:**
1. When a motion is being considered, any motion of higher precedence may be proposed, but no motion of lower precedence may be proposed.
2. Motions are considered and voted on in reverse order to their proposal. The motion last proposed is considered and disposed of first.

**Common Motions in Order of Precedence:**

<table>
<thead>
<tr>
<th>LANGUAGE</th>
<th>INTERRUPT SPEAKER?</th>
<th>SECOND NEEDED?</th>
<th>MOTION DEBATABLE?</th>
<th>VOTE NEEDED?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Privileged Motions: Motions of urgency entitled to immediate consideration.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1)  <em>Adjourn the meeting</em></td>
<td>I move that we adjourn.</td>
<td>NO</td>
<td>YES</td>
<td>YES**</td>
</tr>
<tr>
<td>2)  <em>Recess the meeting</em></td>
<td>I move that we recess until...</td>
<td>NO</td>
<td>YES</td>
<td>YES**</td>
</tr>
<tr>
<td>3)  Questions of Privilege (Noise, temperature, etc.)</td>
<td>I raise the question of privilege....</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>Subsidiary Motions: Motions which alter the main motion, or delay or hasten its consideration.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4)  Postpone temporarily</td>
<td>I move we table the motion.</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>5)  Close debate</td>
<td>I move to close debate and vote immediately.</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>6)  <em>Limit or extend debate</em></td>
<td>I move that the debate on this question be limited to...</td>
<td>NO</td>
<td>YES</td>
<td>YES**</td>
</tr>
<tr>
<td>7)  <em>Postpone to a certain time</em></td>
<td>I move we postpone this matter until...</td>
<td>NO</td>
<td>YES</td>
<td>YES**</td>
</tr>
<tr>
<td>8)  <em>Refer to committee</em></td>
<td>I move we refer this matter to committee.</td>
<td>NO</td>
<td>YES</td>
<td>YES**</td>
</tr>
<tr>
<td>9)  <em>Amend</em></td>
<td>I move that we amend this motion by....</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Main Motions: Motions bringing substantive proposals before the assembly for consideration and action.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10)  <em>Main motions and restorative main motions</em></td>
<td>I move that...</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
</tr>
</tbody>
</table>

The following motions can be offered whenever they are needed and have no order of precedence. They should be handled as soon as they arise.

<table>
<thead>
<tr>
<th>LANGUAGE</th>
<th>INTERRUPT SPEAKER?</th>
<th>SECOND NEEDED?</th>
<th>MOTION DEBATABLE?</th>
<th>VOTE NEEDED?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incidental Motions: Motions that arise incidentally out of the business at hand. They relate to matters incidental to the conduct of the meeting.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1)  Appeal a decision of the chair</td>
<td>I appeal the chair's decision.</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>2)  Suspend the rules</td>
<td>I move to suspend the rules and....</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>3)  Point of order</td>
<td>I rise to a point of order.</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>4)  Raise a question relating to procedure.</td>
<td>I rise to a parliamentary inquiry.</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>5)  Withdrawal of a motion</td>
<td>I move to withdraw my motion.</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>6)  Separate a multi-part question for voting purposes</td>
<td>I move division on the question.</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
</tbody>
</table>

*Can be amended.
**Debatable if no other motion is pending.

Note: General consent is a way of saving time by avoiding votes on routine or non controversial matters. After a motion has been moved and seconded the presiding officer may ask if there are any objections. If anyone objects, a vote must be taken on the action. If there are no objections, the matter has been decided by general consent. The presiding officer may also propose actions by general consent without any motion. If anyone immediately objects, the question must be stated and voted on in the usual way.
Native American Tribal Communities Relations Policy

California Department of Forestry and Fire Protection

Approved by Executive Team January 18, 2012

Policy

It is the policy of the California Department of Forestry and Fire Protection (CAL FIRE) to work cooperatively with all recognized Native American tribal governments in all facets of Department activities to minimize impacts of CAL FIRE projects to cultural resources.

Consistent with this policy, the Department:

- Shall consider "recognized Native American tribal governments" (hereinafter referred to as "tribes") to include federally recognized tribes; Native American Heritage Commission (NAHC) recognized tribes; California Native American organizations, and individuals identified on the CAL FIRE Native American contact list.
- Shall acknowledge both federally and NAHC recognized tribes as unique and separate entities and/or governments.
- Shall consult with tribes to ensure that Department programs and activities protect cultural resources through avoidance of those resources or through implementation of protection measures that minimize adverse impacts.
- Shall recognize and respect tribal rights, sites, traditions, and practices.
- Shall consult with tribes for Department projects it undertakes or approves having the potential to impact tribal communities.
- Shall consult with tribes for Department planning efforts, assessments, strategic plans, etc. having the potential to impact tribal communities.
- Shall encourage participation by tribes in obtaining grants, or otherwise conducting activities, for improvement of forest health or community safety.
- Shall work with tribes for protection of cultural resources during fire suppression efforts where practical, based on threat to public safety and situation.

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1 This document provides the overall, high-level policy for the Department. More specific policy and implementation direction is included in other Departmental directives, including Archaeological Review Procedures for CAL FIRE Projects and the CAL FIRE Handbook.

2 CAL FIRE projects are projects that are initiated, funded, or permitted by CAL FIRE in its role as lead agency under the California Environmental Quality Act (CEQA) and include, but are not limited to, Timber Harvesting Plans, Nonindustrial Timber Management Plans, Timberland Conversions, projects in the Vegetation Management Program (VMP), California Forest Improvement Program (CFIP), Proposition 40 and 84 grants, State Forest timber sales and other demonstration state forest projects, engineering and Pre-Fire (Burn/Mechanical Plan) project areas, and capital outlay projects. Additional examples include, but are not limited to the development of management plans, cultural resource inventories on State Forests, special projects such as archaeological test excavations, design of archaeological interpretive trails and the development of interpretive materials and CAL FIRE brochures.
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.

Policy Objectives

The mission of the California Department of Forestry and Fire Protection (CAL FIRE) is to serve and safeguard the people and protect the property and resources of California. Among the varied resources to be protected are cultural resources, which include Native American cultural sites (places where religious, ceremonial, and/or resource gathering activities took/take place) and Native American archaeological sites. CAL FIRE, at all levels, will act in a knowledgeable, sensitive, and respectful manner when working with tribes to protect cultural resources.

When projects are in the proposal stage, preplanning and consultation with the culturally affiliated tribes should be part of the planning process. Where appropriate, tribal involvement also should be included during project 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 and/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.

Responsibilities

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. The Director will designate a Tribal Historic Preservation Officer, who will have day-to-day responsibility for ensuring implementation of this policy.

Tribal Historic Preservation Officer: Represents the Director on all matters associated with tribal relations. Reports to the Assistant Deputy Director for Resource Protection and Improvement, unless otherwise directed.

Deputy Director for Resource Management: Has lead responsibility for the development and implementation of policy regarding issues impacting tribal communities and coordinates activities of appointed committee(s) should they be appointed by the Director.

Assistant Deputy Director Resource Protection and Improvement: Has lead responsibility in assuring that 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 Historic Preservation Officer.
Assistant Deputy Director, Forest Practice: Has lead responsibility to ensure adequate consultation with tribal entities and development of necessary mitigation during the review of timber harvesting projects pursuant to the ZêBerg-Nejedly Forest Practice Act (FPA) and the Board of Forestry and Fire Protection regulations (Forest Practice Rules).


Assistant Deputy Director for Technical Services: Has lead responsibility for CAL FIRE capital projects and ensuring that this policy is followed as a part of the development and implementation of these projects.

Environmental Protection Forestry and Fire Protection Administrator: Currently serves at the Department’s Tribal Historic Preservation Officer. Has lead responsibility for ensuring conformance with this policy for projects other than those subject to the Forest Practice Act; oversight of archaeology program areas and delivery of services; staffing or delegation of staffing of Director appointed committee(s), if any; oversight of tribal relations training for Department managers and personnel; and oversight of 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: Have lead responsibility for project review to ensure compliance with federal and state law; are responsible for federal and state reporting requirements relative to protection of cultural resources; perform review of work done by external consultants; and conduct of site reviews and surveys for Department projects, as appropriate.

Regional Resource Managers, Forestry and Fire Protection Administrators: Have 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 Department policy, tribal laws, existing agreements and contracts with local tribes, and any impediments to Department authorities and capability to enter into agreements with tribes.

Unit Chiefs: Have lead responsibility for development of Fire Protection Reimbursement Agreements and, with involvement of Department archaeological staff, protection of cultural resources during capital outlay projects and other local Unit projects, and development of local cultural resource protection strategies to be employed during fire suppression activities.

CAL FIRE’s Native American Advisory Council

CAL FIRE has a Native American Advisory Council (NAAC) to advise the CAL FIRE Director on Native American issues. The mission of the NAAC is to assist CAL FIRE in establishing a cooperative and meaningful relationship with California tribes. The nine
appointed members are Native Americans and represent Native American interests statewide.

The NAAC has been inactive for several years. The Department will evaluate the need for and appropriate role of the NAAC and take action accordingly.

**Native American Consultation Procedures**

**Introduction/Legal Authority**

This document describes the procedures for consultation with Native Americans for all CAL FIRE projects. This set of consultation procedures in combination with existing procedure direction posted on the CAL FIRE website provides direction to CAL FIRE staff on consultation requirements for CAL FIRE projects.

CAL FIRE is required by State law and regulations [ref. Public Resources Code (PRC) § 21104 and 14 California Code of Regulations (CCR) §§ 15064.5, 929.1(a)(2) and 929.1(b)] to consult with the Native American Heritage Commission (NAHC) and recognized local Native American tribes during the development and review of CAL FIRE projects. Fire Protection Reimbursement Agreements are not considered projects requiring consultation with the NAHC. Tribal groups and individuals identified on CAL FIRE’s Native American Contact List are the appropriate local points of tribal contact.

**Consultation Procedures Statement**

CAL FIRE shall consult with the NAHC and listed local tribes for any CAL FIRE project that has the potential to cause significant impacts to a Native American cultural resource. Consultation should proceed pursuant to Government Code §§ 65352.3, 65352.4, 65560 and 65562.5. Resources of concern that require Native American consultation include prehistoric or ethno-historic archaeological sites, and traditional cultural properties such as sacred places and gathering locations. In addition to consulting during specific CAL FIRE projects, CAL FIRE should also initiate consultation during broad-scale program development and activities.

**Definition of Consultation**

Consultation means providing recognized tribes timely notice and opportunity to comment on a proposed CAL FIRE project in an on-going manner whether the situation is an emergency or planned event. It is also an opportunity for CAL FIRE to request information on specific cultural resources that may be impacted by a proposed project. Consultation is intended to address the identification of sites, site significance evaluation, impacts assessment, and resolution of significant adverse change. Its purpose is to give Native Americans an opportunity to present their interests and concerns to a lead agency. In this relationship, CAL FIRE’s obligation is to seek and consider the views of participating Native American groups. 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 the final agency decision. The consultation requirement, thus, gives a tribe the ability to advocate an outcome it would like to see CAL FIRE take in the final project decision.

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, RPFs and CAL FIRE project managers are encouraged to correspond and provide maps of the location of the proposed project. 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 the written notifications, as appropriate.

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

The CAL FIRE project manager should recognize that in many instances, Native American people are being asked to volunteer their time to provide CAL FIRE with information. Accordingly, CAL FIRE should consider steps to overcome financial impediments which 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 CAL FIRE independently discovers that Native American people may have concerns about a proposed CAL FIRE project, the CAL FIRE manager and/or-RPF should investigate and consult. In those instances, telephone calls and face-to-face meetings (in an office or out at the project site) should be completed to gather information, answer questions, listen to concerns, and give consideration to any recommendations provided by concerned/interested Native Americans.

Typically, consultation regarding CAL FIRE projects can be completed in a series of steps. The first step, called Initial Consultation, is intended to provide notice of a proposed project and request information about cultural resources known or thought to exist within or adjacent to the project area. The second step, called Second Consultation, is taken when known cultural resources are located within the project.

**Additional Consultation Efforts**

CAL FIRE will conduct additional Native American consultation beyond Initial and Second Consultation if it is judged to be appropriate and necessary or requested by the tribe. The purpose here is to fully evaluate potential effects, and provide the NAHC and local listed tribes additional opportunity to participate in the project review process. For example, this type of consultation might include escorts of appropriate Native American persons or groups to inspect archaeological resources and prescribed CAL FIRE treatments.
Memorandum

To: Region Chiefs
    Unit Chiefs
    Headquarters Program Managers

Date: April 10, 2003

Telephone: (916) 653-0839

From: Ross Johnson, Deputy Director, Resource Management
      Department of Forestry and Fire Protection

Subject: Native American Consultation Procedures for CDF Projects

Attached for your use and distribution to staff is the recently revised Native American Consultation Procedures for CDF Projects. These procedures provide assistance and direction to CDF Foresters, VMP Coordinators, Environmental Coordinators, Forestry Assistance Specialists, Pre-Fire Engineers, State Forest Managers, and other key CDF staff that participate in archaeological reviews of CDF projects. These procedures contain specific guidance on a very important component of archaeological review – Native American Consultation. The term CDF projects, as used in these procedures, means any type of project where CDF is acting as lead agency pursuant to the California Environmental Quality Act (CEQA) except for Timber Harvesting Plans (THPs).

These procedures are entirely consistent with the Archaeological Review Procedures for CDF Projects previously distributed to you, and are modeled after specific requirements contained in the Forest Practice Rules. We want to be sure the Department holds itself to the same standards for Native American Consultation as required of the public we regulate.

I am pleased we were able to develop updated procedures for your use. If you have any questions concerning them, or would like an electronic copy of the file to facilitate widespread distribution, please contact Dan Foster, Senior Archaeologist at (916) 653-0839 or via email.
Native American Consultation Procedures
For CDF Projects

by:

Daniel G. Foster
Senior State Archaeologist
California Department of Forestry and Fire Protection

Date Revised: September 13, 2002

Introduction
The California Department of Forestry and Fire Protection (CDF) is required by State law (see PRC Section 21104) and regulations (see 14 CCR Section 15064.5) to consult with the Native American Heritage Commission (NAHC) and local Native American tribes. Individuals identified on the CDF’s Native American Contact List are the appropriate local points of tribal contact referred to hereon. This document provides guidance for successful consultation with Native Americans and it applies to all forms of CDF Projects. Several other documents addressing the CDF Archaeology Program policies have used the term CDF Projects, and normally, this includes Timber Harvesting Plans reviewed by the CDF in its role as lead agency. However, THPs were excluded from the definition of CDF Projects as used in this document since THPs are subject to regulations promulgated by the Board of Forestry (see 14 CCR Section 929.1), not the CDF. Furthermore, the THP process requires consultation with Native American Tribes and individuals by the RPF that is preparing the plan, and CDF’s role in this process is not the same as our role in the development of projects we are initiating ourselves.

From this point on, the term CDF Projects includes, but is not limited to, projects in the Vegetation Management Program (VMP), all programs in Forestry Assistance such as the California Forest Improvement Program (CFIP), Forest Incentive Program (FIP), Forest Stewardship Program (FSP), Stewardship Incentives Program (SIP), etc., State Forest, Engineering, and Pre-Fire (Burn/Mechanical Plan) project areas. This set of procedures provides direction to the CDF staff on consultation requirements for CDF Projects, and should not be confused with the procedures specified in the Forest Practice Rules.

Consultation Procedures Statement
The CDF shall consult with the NAHC and listed local tribes for any CDF Project that has the potential to cause significant impacts to a Native American cultural resource. Resources of concern that require Native American consultation include prehistoric or ethno-historic archaeological sites, traditional cultural properties, such as sacred places, and gathering localities.

Consultation shall be initiated during broad-scale activities or typical CDF Projects. Such projects might include, but are not limited to, the development of management plans, cultural resource inventories on State Forests, typical CDF projects, or special
projects such as archaeological test excavations, archaeological interpretive trails, the development of interpretive materials, CDF brochures, and other activities as appropriate.

Consultation shall also take place in those sensitive instances, such as the discovery of Native American human remains and burial goods, as specified in State law (see Health and Safety Code Section 7050.5 and PRC Section 5097.98). State agencies should consult with Native American groups and individuals because cultural resources of significance to Indian tribes deserve full consideration in the project planning and review process and tribes possess a special perspective on, and relation to these resources.

**Definition of Consultation**
Consultation with Native Americans means affording timely notice and opportunity to comment on a proposed CDF project. It is also an opportunity to request information on specific cultural resources that may be impacted by a proposed project. Receipt of their written or verbal comments, views, and concerns prior to project approval are the essence of consultation. CDF project managers are encouraged to correspond and provide maps of the location of the proposed project. Direct contacts through telephone calls, email correspondence and face-to-face meetings facilitate the development of mutual trust and encourage the exchange of information.

Critical to successful consultation is listening to, and actively considering the views expressed by Native American individuals and/or groups. A principal goal of consultation is to provide Native Americans a reasonable opportunity to express their views on a CDF project. Although face-to-face meetings are not required for every project, the value of personal contact should not be overlooked.

When the CDF independently discovers that Native American people may have concerns about a proposed CDF project, the CDF manager should investigate and consult. In those instances, telephone calls and face-to-face meetings (in an office or out at the project site) should be completed to gather information, answer questions, listen to concerns, and give consideration to any recommendations provided by concerned/interested Native Americans.

Typically, consultation regarding CDF Projects can be completed in a series of steps. The first step, called *Initial Consultation*, is intended to provide notice of a proposed project and request information about cultural resources known or thought to exist within or adjacent to the project area. The second step, called *Second Consultation*, is taken when known cultural resources may be affected by the project.

**Initial Consultation**
To complete the Initial Consultation, the CDF project manager shall send correspondence with maps to the NAHC and to all the appropriate local tribal contacts. The CDF Archaeology Program recommends two map attachments: a vicinity map, and a detailed project map. A copy of the appropriate segment of the USGS 7.5’ quadrange will suffice. To better facilitate communication, the correspondence should contain:
• an introductory statement of purpose,
• a brief description of the proposed project,
• a request for information on archaeological or cultural sites that might exist in the project area,
• information on when the project is likely to begin,
• the name, address, and phone number of the appropriate CDF person to contact,
• information on the time frame to submit written comments (indicate we would appreciate receiving comments at least within 30 days),
• a statement that encourages participation in the project review process.

The NAHC will check its Sacred Lands File and reply if sacred lands sites are identified.

**Second Consultation**
A second consultation step must be completed for a CDF Project with Native American archaeological or cultural resources in an area that might be affected. If the project area is changed to exclude archaeological sites, and such sites will not be affected, or if archaeological sites are identified, but are historic representations (Euro-American-era resources) the second notice is not necessary.

The second step provides clear notice that a proposed project could affect Native American archaeological or other cultural resources. It further provides the consulted Native American groups the opportunity to submit comments concerning site stewardship, protection, or management for the CDF to consider.

To complete the second consultation, correspondence with attached project and impact specific maps shall be sent to the NAHC and to appropriate local tribal contacts on CDF’s list. Two maps are recommended attachments to the correspondence: a vicinity map and a detailed project/impact specific map. A copy of the appropriate segment of the USGS 7.5’ quad will usually suffice for the project map. The substance of the correspondence shall include:

• notification that archaeological resources are present in the proposed project area,
• a brief project description,
• a brief description of the identified archaeological and/or cultural resources,
• the proposed protection measures,
• an invitation to submit written comments to the CDF for its consideration prior to project approval,
• name, address, and phone number of the appropriate CDF staff person to receive comments,
• the date or timeframe for submitting comments (at least 30 days from the date of the CDF correspondence).

Sometimes the initial and second consultation may be completed in a single step. This is the case if the CDF knows that cultural resources are present and how they will be treated. Although it is not a requirement to complete this work in two steps, the usual
procedure is to send the first notice prior to the completion of an archaeological survey, and then a second notice after all survey work has been finished and an initial plan for the treatment of cultural resource impacts has been developed.

**Additional Consultation Efforts**
The CDF shall conduct additional Native American consultation beyond Initial and Second Consultation, if it is judged to be appropriate and necessary. The purpose here is to fully evaluate potential effects, and provide the NAHC and local listed tribes additional opportunity to participate in the project review process. For example, this type of consultation might include escorts of appropriate Native American persons or groups to inspect archaeological resources and prescribed CDF treatments.

**Documentation**
The CDF shall keep documentation of all Native American consultation in the project file, and be prepared to demonstrate compliance with applicable State law and regulation.

**Consultation Limitations**
If the CDF project manager receives requests from the NAHC and/or local tribes that appear to be outside the primary topic for consultation (potential impacts to cultural resources), a CDF Archaeologist should be contacted for assistance.

**Payment of Fees**
The CDF’s project manager may receive a request from Native American individuals or groups for payment of fees for consultation. This section is intended to provide direction on how to respond to such requests. The CDF’s project managers should recognize that in many instances, Native American people are being asked to volunteer their time to provide CDF with information. Accordingly, the CDF should consider steps to overcome financial impediments that 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.

Consultation is intended to address the identification of sites, site significance evaluation, impacts assessment, and resolution of significant adverse change. Its purpose is to give Native Americans an opportunity to present their interests and concerns to a lead agency. In this relationship, the state agency’s obligation is to seek and consider the views of participating Native American groups. This means an agency must make a good faith effort to solicit the views of Native American individuals and groups and factor these views into the final agency decision. The consultation requirement, thus, gives an Indian tribe the ability to advocate an outcome it would like to see the agency take in the final project decision.

When state agencies seek the views of an Indian tribe to fulfill the agency’s legal obligation to consult, the agency is not required to pay the tribe for providing its views. The tribe is acting as a responsible agency or an agency with special expertise under CEQA. CEQA does not give agencies acting in these roles authority to charge fees for their response to consultation. If the agency has made a reasonable and good faith effort
to consult with an Indian tribe and the tribe refuses to respond without receiving payment, the agency has met its obligation to consult, and is free to proceed with the project review and approval process.

Under some circumstances, however, CDF may choose to contract with a Native American group or individual for paid consulting services to help CDF develop information. Those situations may include when:

- CDF specifically requests a Native American group or individual to conduct a field survey within the CDF project to address a specific issue requiring their expertise, or
- During an archaeological excavation when it is has been determined by a CDF Archaeologist that a Native American monitor is needed.

In those instances, the agency or applicant is formally purchasing the services of the tribe.

Ultimately, a state agency must be able to demonstrate that it made a reasonable and good faith effort. CEQA and the Forest Practice Rules encourage consultation with Indian tribes and their active participation in the planning process. These laws and regulations, however, do not require CDF or project applicants to pay for consultation. If an agency or applicant attempts to consult with an Indian tribe and the tribe demands payment as a condition of consulting, then the agency or applicant may refuse payment and move to the next step in the review process. In such situations, however, the agency should still document the efforts made to consult with Native Americans. If, on the other hand, the agency or applicant seeks information or documentation that it would normally obtain from a professional contractor or consultant, then they should expect to pay for the work product.

In cases where the CDF representative determines that payment for services would be appropriate to implement a CDF project, payment must be arranged within standard administrative processes.

**Native American Heritage Commission**
NAHC staff member Rob Wood is the point of contact. He can be reached by telephone at (916) 653-4040 or via E-mail at rw_nahc@pacbell.net

The mailing address and phone number for the NAHC is as follows:
Native American Heritage Commission
915 Capitol Mall, Room #364
Sacramento, CA 95814
(916) 653-4082 (office)
(916) 657-5390 (FAX)

**Native American Contacts List**
The most current version of the CDF’s Native American Contacts List is posted on the CDF Internet Web Site as the primary means of making the list accessible to users. To find the list, visit the CDF Internet Web Site Home Page at [www.fire.ca.gov](http://www.fire.ca.gov) and click on
Resource Management and Forestry. Then click on Archaeology (this option is on left, scroll down to find it), then click on Assistance to RPFs, then Native American Contacts. Here you will find the link to the Word file contain the CDF's Native American Contacts List and other supporting materials.

Legal References
The following references list those appropriate sections in State law, regulations, and policy that require Native American consultation for CDF projects.

CEQA Guidelines Appendix B
Appendix B of the CEQA Guidelines (2002) lists those public agencies that have jurisdiction by law and must be consulted by the lead agency whenever a project may affect certain environmental resources. The NAHC has been given statutory authority concerning historic and archaeological sites.

PRC Section 21104
Section 21104 of the CEQA Guidelines (2002) requires CDF to consult with, and obtain comments from, any public agency with jurisdiction in law with respect to the project. Since the NAHC has been given statutory authority concerning historic and archaeological sites, CDF must consult with the NAHC for any project that has potential to impact archaeological resources, and for those projects where the existence of archaeological resources has been confirmed. The NAHC requested CDF to also consult with local tribes on the Native American Contact List during the Environmental Checklist process prior to approval of projects covered under a programmatic EIR. These procedural requirements are identified in CDF's Program EIRs for CFIP and VMP.

Case Law
Environmental Protection Information Center (EPIC) v. Johnson (1985) 170 Cal.App.3d 604. In Epic v. Johnson, the court of appeals held that CDF's failure to consult with the NAHC constituted an abuse of discretion for failing to proceed in the manner required by law; and that abuse of discretion was prejudicial (170 Cal.App.3d, supra, pp.626-627). The court further ruled that the presence of the archaeological site on the proposed THP mandated CDF consultation with at least the NAHC, and that CDF acting as Lead Agency is required to consult with the NAHC before approval of any THP bearing an archaeological site.

PRC Section 21080.3 and 21080.4
Sections 21080.3 and 21080.4 of the CEQA Guidelines (2002) requires CDF to consult with any public agency with jurisdiction in law (including the NAHC) prior to determining whether a negative declaration or environmental impact report is required and when CDF determines that an environmental impact report is required. This means CDF must send the NAHC a copy of the Notice of Preparation when we are preparing an EIR.
PRC Section 15096
Section 15096 of CEQA discusses the role of a Responsible Agency and how they are to respond to consultation.

CFIP Program EIR
The Programmatic EIR for the CFIP Program (1990 - page 67) contains procedural requirements that discuss mitigation measures and CEQA compliance. CDF is specifically required to send to the NAHC a copy of the project map and a brief project description and seek their review.

VMP Program EIR
The Programmatic EIR for the VMP Program contains procedural requirements. One item specifically requires CDF to contact the NAHC and Native American tribes and individuals.
Archaeological Review Procedures for CAL FIRE Projects

Revised: April 26, 2010

by:

Daniel G. Foster
Senior Environmental Planner
and
Linda Pollack
Senior State Archaeologist

California Department of Forestry and Fire Protection
P.O. Box 944246
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Editorial Note: This document was written in 2002-2003 by Daniel G. Foster who at that time was serving as the Department’s Archaeology Program Manager. The original report, entitled Archaeological Review Procedures for CDF Projects was dated January 9, 2003 and contained detailed procedures to complete archaeological review for Department projects. The approved procedures were distributed to CAL FIRE Region and Unit Chiefs and Headquarters Program Managers with a transmittal memo signed by the Deputy Director for Resource Management dated January 14, 2003. The document has been updated twice since 2003 by Linda Pollack, Senior State Archaeologist for Southern Region. These updates are relatively minor in scope, including changes in the Department’s moniker, updated information on staff archaeologist positions and the Certified Archaeological Surveyor Training Program. This updated version should be used in reference to Department procedures and should be cited Foster and Pollack 2010.
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I. General Information

Introduction: This set of procedures was assembled to provide assistance and direction to CAL FIRE Foresters, VMP Coordinators, Environmental Coordinators, Forestry Assistance Specialists, Pre-Fire Engineers, State Forest Managers, and other key officials in their task of completing an archaeological review for a CAL FIRE project. These procedures include guidance for completing an archaeological survey as well as impact assessment and detailed instructions for completing the Archaeological Survey Report Form for CAL FIRE Projects. The term CAL FIRE projects, as used here, means any type of project where CAL FIRE is acting as lead agency pursuant to the California Environmental Quality Act (CEQA) except for Timber Harvesting Plans (THPs). Although procedures for archaeological review of THPs are similar, THP survey reports are presented on a different survey report form and the procedures followed in preparing and reviewing THPs are those that are stipulated in the Forest Practice Regulations. This document is intended to cover all forms of CAL FIRE projects (except for THPs), including, but not limited to, cost-share grants administered by CAL FIRE’s Forestry Assistance Program (e.g. CFIP, FLEP, Forest Stewardship, etc.), purchase of conservation easements, vegetation management projects implemented under CAL FIRE’s VMP or Pre-Fire Programs, Urban Forestry grants, projects on State Forests, as well as Capitol Outlay and/or Facility Improvements on other CAL FIRE properties. This document is organized into three chapters: General Information, Procedures for Archaeological Reviews of CAL FIRE Projects, and Completing the Archaeological Survey Report Form. A detailed Table of Contents is included to enable the reader to quickly locate information on a particular topic.

Role of CAL FIRE Archaeologists: CAL FIRE has six full-time professional Archaeologists on staff to assist and support the archaeological review of CAL FIRE projects. As part of their regular duties these CAL FIRE archaeologists are responsible for providing assistance to CAL FIRE project managers in the task of environmental planning of CAL FIRE projects. It is important to clarify, however, that these archaeologists are assigned numerous other duties as well, which reduces their availability for support. CAL FIRE Archaeologists have major responsibilities in THP review and enforcement, training, historic preservation, policy development, contract administration, Native American and agency contacts, assistance to private RPFs, and response to wildfires and other emergencies. The Department does not have nearly enough archaeologist positions to conduct all of the archaeological surveys and project reviews required by law. Instead, the CAL FIRE Archaeology Program commits a good portion of its resources to the planning and delivery of an archaeological site recognition training program to private and state foresters and other resource professionals to assist them as they develop their projects. In order to supplement this training, CAL FIRE staff Archaeologists provide support and professional review. In addition to our six archaeologist positions, CAL FIRE has for many years utilized the services of additional archaeologists through contracts with state universities. These contract archaeologists, whose ranks currently include eleven people working part-time in an office setting or on-call for field assignments, work under the direction of CAL FIRE staff Archaeologists. They assist in THP reviews, conduct field inspections, record sites, report on damaged sites, provide significance assessments, and perform other important tasks to support CAL FIRE’s programs.

To be effective, the relationship between CAL FIRE Archaeologists and CAL FIRE staff developing projects must include a high level of technical supervision and oversight by the CAL FIRE Archaeologist at each key step in the archaeological review process. The CAL FIRE Archaeologists’ role includes performing regular and timely quality control, and work review and inspection, both in the office and in the field, and are able to take, or effectively recommend,
corrective actions where necessary. The frequency of the review, inspection, and guidance shall take into consideration the cultural resource survey work products previously submitted and the technical complexity of the job, but shall be sufficiently frequent to ensure the completion of work that meets current professional standards. In addition, archaeologically trained resource professionals must maintain their archaeological training certification from CAL FIRE, and must regularly consult with a CAL FIRE Archaeologist during the planning of CAL FIRE projects to receive sufficient guidance and assistance. CAL FIRE Archaeologists shall review all work products submitted by archaeologically trained resource professionals and shall provide approval signature on archaeological survey reports only after satisfactory completion of archaeological surveys, site records, and written reports.

On occasion CAL FIRE has projects that include archaeological work completed by archaeological consultants or other agencies, such as the State Department of General Services which oversees capitol outlay projects. In these instances, the archaeological consultant must also consult with the appropriate CAL FIRE Archaeologist. CAL FIRE Archaeologists must review and approve the work products submitted by such consultants, as well. Although the written reports provided by those professionals do not need to follow the CAL FIRE Archaeological Survey Report format, such reports must nevertheless follow the standards of Preservation Planning Bulletin Number 4, Archaeological Resource Management Reports (ARMR): Recommended Contents and Format (December 1989, California Office of Historic Preservation).

How to Reach a CAL FIRE Archaeologist: CAL FIRE staff Archaeologists are often on assignment away from their offices conducting field inspections throughout the state, planning and delivering training, and completing other duties. In recognition of the critical role they have in the planning of CAL FIRE projects, efforts have been made to maximize their accessibility to CAL FIRE staff for consultation, support, and assistance. All CAL FIRE Archaeologists carry cell phones which can be helpful in making contact, even when the person is away on field assignment. CAL FIRE project managers are encouraged to make contact with the appropriate CAL FIRE Archaeologist for assistance, but you may request assistance from any CAL FIRE Archaeologist if your primary contact is unavailable. A list of CAL FIRE Staff Archaeologists is provided on the CAL FIRE Archaeology website and is provided in Table 1 on the following page. Both include each archaeologist’s mailing address, telephone number, email address, and areas of responsibility.

Role of the Project Manager: The CAL FIRE Project Manager is responsible to ensure that archaeological review procedures have been satisfactorily completed before initiating the project. A key element of the procedures described in this document is a coordinated effort between CAL FIRE staff developing the project and the appropriate CAL FIRE Archaeologist responsible for support and assistance.

Minimum Qualifications of CAL FIRE Personnel: Archaeological review work for CAL FIRE projects shall be conducted by persons meeting the same training standards specified in the Forest Practice Rules for the preparation and review of THPs (see 14 CCR Section 929.4). These standards require that archaeological surveys, impact assessments, site recording, and preliminary studies be conducted either by a professional archaeologist or an archaeologically trained resource professional working under the supervision of a CAL FIRE Archaeologist. For most CAL FIRE projects, the preliminary study, survey work, and preparation of a survey report or clearance letter will be completed by an
**Table 1 - List of CAL FIRE Staff Archaeologists**
*(As of April 26, 2010)*

<table>
<thead>
<tr>
<th>Name</th>
<th>Address/Phone/E-Mail</th>
<th>Job Duties</th>
</tr>
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<tbody>
<tr>
<td>Rich Jenkins</td>
<td><strong>Northern Region Operations Center</strong>&lt;br&gt;6105 Airport Road&lt;br&gt;Redding, CA 96002&lt;br&gt;(530) 224-4749 (office)&lt;br&gt;(530) 949-8822 (mobile)&lt;br&gt;&lt;code&gt;<a href="mailto:rich.jenkins@fire.ca.gov">rich.jenkins@fire.ca.gov</a>&lt;/code&gt;</td>
<td>Senior State Archaeologist for CAL FIRE’s Northern Region</td>
</tr>
<tr>
<td>Linda Pollack</td>
<td><strong>Southern Region Headquarters</strong>&lt;br&gt;1234 East Shaw Avenue&lt;br&gt;Fresno, CA 93710-7899&lt;br&gt;(559) 243-4119 (office)&lt;br&gt;(559) 250-8557 (mobile)&lt;br&gt;&lt;code&gt;<a href="mailto:linda.pollack@fire.ca.gov">linda.pollack@fire.ca.gov</a>&lt;/code&gt;</td>
<td>Senior State Archaeologist for CAL FIRE’s Southern Region</td>
</tr>
<tr>
<td>Chuck Whatford</td>
<td><strong>Northern Region Headquarters</strong>&lt;br&gt;135 Ridgway Avenue&lt;br&gt;Santa Rosa, CA 95402&lt;br&gt;(707) 576-2966 (office)&lt;br&gt;(707) 529-7989 (mobile)&lt;br&gt;&lt;code&gt;<a href="mailto:chuck.whatford@fire.ca.gov">chuck.whatford@fire.ca.gov</a>&lt;/code&gt;</td>
<td>Associate State Archaeologist Working in CAL FIRE’s Northern Region</td>
</tr>
<tr>
<td>Herb Dallas</td>
<td><strong>Southern Region Operations Center</strong>&lt;br&gt;2249 Jamacha Road&lt;br&gt;El Cajon, CA 92019&lt;br&gt;(858) 722-4406 (office)&lt;br&gt;(951) 840-0004 (mobile)&lt;br&gt;&lt;code&gt;<a href="mailto:herb.dallas@fire.ca.gov">herb.dallas@fire.ca.gov</a>&lt;/code&gt;</td>
<td>Associate State Archaeologist Working in CAL FIRE’s Southern Region</td>
</tr>
<tr>
<td>Stephanie Velasquez</td>
<td><strong>Southern Region Operations Center</strong>&lt;br&gt;2524 Mulberry Street&lt;br&gt;Riverside, CA 92501&lt;br&gt;(951) 320-2075 (office)&lt;br&gt;(951) 901-5029 (cell)&lt;br&gt;&lt;code&gt;<a href="mailto:stephanie.velasquez@fire.ca.gov">stephanie.velasquez@fire.ca.gov</a>&lt;/code&gt;</td>
<td>Associate State Archaeologist Working in CAL FIRE’s Southern Region</td>
</tr>
<tr>
<td>Gerrit Fenenga</td>
<td><strong>Amador Eldorado ADM</strong>&lt;br&gt;2840 Mt. Danaher Road&lt;br&gt;Camino, CA 95709&lt;br&gt;(530) 647-5200 (office)&lt;br&gt;(916) 261-1108 (mobile)&lt;br&gt;&lt;code&gt;<a href="mailto:gerrit.fenenga@fire.ca.gov">gerrit.fenenga@fire.ca.gov</a>&lt;/code&gt;</td>
<td>Associate State Archaeologist Working in CAL FIRE’s NEU, AEU, and TCU</td>
</tr>
</tbody>
</table>
archaeologically trained forester or other key official in the unit in consultation with a CAL FIRE Archaeologist. CAL FIRE Units are encouraged to support the acquisition of and maintenance of archaeological training for key staff in order to facilitate project planning and avoid delays that could occur if staff resources are not available to complete the review work required by applicable state law and regulation.

**Archaeological Training Opportunities:** The archaeological training program delivered by CAL FIRE provides archaeological site recognition training to both CAL FIRE staff and members of the regulated public including Registered Professional Foresters (RPFs) who prepare THPs. Since this training is made available to CAL FIRE personnel and to members of the private sector in response to forest practice requirements, the program is external and is delivered in partnership with the California Licensed Foresters Association (CLFA). Because CAL FIRE is not staffed or budgeted to provide this training, the costs of the courses are paid by CLFA from a fund generated through the collection of registration fees. These costs include speaker fees, travel costs for instructors, printing expenses, facility and equipment rentals, lunches and refreshments. CAL FIRE personnel who should complete this training include Forest Practice Inspectors, VMP Coordinators, Pre-Fire Engineers, Environmental Coordinates, FAS Specialists, State Forest Managers and other key staff. CAL FIRE also has a responsibility to identify and protect archaeological sites that might be impacted during wildland fire suppression work, when such protection is possible. Therefore, it is also suggested that key staff in a fire protection capacity, including Battalion Chiefs, Station Captains, Crew Captains, Dozer Bosses, HFEOs, Field Observers, Fire Suppression Repair Personnel, and Planning Section Chiefs be encouraged to receive the training. Private sector personnel who are responsible for completing archaeological surveys, impact evaluations and site recording requirements set forth in California’s Forest Practice Rules are also expected to complete this training. This group includes Registered Professional Foresters (RPFs) who prepare THPs and other Forest Technicians and Supervised Designees who participate in cultural resource surveys. These training courses are also open to Licensed Timber Operators, Timberland Owners, Native Americans, and other resource professionals who have occasion to work on or review CAL FIRE projects. General members of the public may also attend, if space is available. There are two types of courses:

- **Full Five-Day Course** - This is the initial basic course. It is offered to those who have not previously completed the full CAL FIRE Certified Archaeological Surveyor Training Course as well as those who previously completed this course prior to 1990 when the current expanded content and curriculum was first established. People who haven’t kept their training current (i.e., haven’t attended a training program approved by the Director within five years prior to the planning of a CAL FIRE project or THP) must repeat the full five-day course. This course is designed as a practical training course for CAL FIRE staff, foresters and other resource professionals who may encounter archeological sites and other cultural resources in their job duties. In addition, the course satisfies the five-year continuing education requirement of the Forest Practice Rules. Illustrated lectures, assigned reading, group workshops, group discussions, and archaeological field surveying exercises will familiarize students with the kinds of archaeological materials they are likely to encounter, their legal obligations towards them, and how to best achieve compliance with current state cultural resource protection laws and regulations. Course instructors include state, consulting and research archaeologists, as well as an RPF and a Native American Instructor. The cost of the five-day course is approximately $700 (cost subject to change), which includes a course reference manual, lunches and refreshments all 5 days. Students who satisfactorily complete this course are issued a training certificate valid for a five year period.
• **One Day Refresher Course** - This course is only offered to those individuals who have previously completed the initial training course. The refresher program runs in a five year cycle so all students basically receive the same information. Depending on the cycle, the class may be held either in the field or in the classroom, or a combination of both. It emphasizes one or two specific topics such as, historical site management, prehistoric site recognition, professional documentation, and Native American consultation. Students who satisfactorily complete the refresher are issued a training certificate valid for another five year period. The cost of the refresher course is approximately $150 (cost subject to change).

Notices of class schedules, locations, and instructions for enrollment are distributed to the CAL FIRE Training Coordinators at the beginning of each year. This information is also available on the CAL FIRE Archaeology Program’s Web Site as well as the CLFA website.

**Web Site:** The CAL FIRE Archaeology Program maintains a web site that, among other functions, serves as a convenient method to provide CAL FIRE staff and others with information, reports, forms, instructions, and other types of assistance in the task of conducting archaeological review work for CAL FIRE projects. These web pages can be located through a link at the Department’s main Internet Web Site at [http://www.fire.ca.gov](http://www.fire.ca.gov) by clicking on Resource Management and Forestry, then clicking on Archaeology. You may also go directly to our web site at [http://www.indiana.edu/~e472/CAL_FIRE/](http://www.indiana.edu/~e472/CAL_FIRE/)  
  
  CAL FIRE project managers are encouraged to regularly visit this web site and become familiar with its contents which include the current Native American Contacts List, a List of Information Centers, Archaeological Training Schedule and Enrollment Instructions, Survey and Recording Forms, CAL FIRE’s Management Plan for Historic Buildings and Archaeological Sites, and many additional items needed to conduct archaeological reviews for CAL FIRE projects.

**Legal Requirements:** A number of state laws and regulations require CAL FIRE to identify and protect cultural resources. Section 106 of the National Historic Preservation Act and its implementing regulations also apply to some CAL FIRE projects when federal funds are being used. The primary mandate requiring archaeological review of CAL FIRE projects is found in the California Environmental Quality Act (CEQA). This state law requires CAL FIRE to identify potential impacts to archaeological resources during our assessment of environmental impacts from CAL FIRE projects, and to change the project or develop mitigation measures to eliminate or reduce the severity of those impacts. Additional state agency requirements pertaining to the management of cultural resources on state-owned lands are found in Public Resources Code (PRC) Section 5024. Environmental Impact Reports (EIRs) for CAL FIRE’s California Forest Improvement Program (CFIP), Vegetation Management Program (VMP), State Forest Management Plans, and our statewide Management Plan for Historic Buildings and Archaeological Sites contain specific requirements we must follow. California Executive Order W-26-92 directs CAL FIRE to develop programs for the preservation of the state’s heritage resources throughout our jurisdiction. CAL FIRE also receives funding from several federal agencies to support our programs. This brings in a suite of federal laws and regulations pertaining to the protection of cultural resources. In 1996, CAL FIRE entered into a Programmatic Agreement (PA) with the U.S. Forest Service (USFS), State Office of Historic Preservation, and the Advisory Council on Historic Preservation that specifically addresses CAL FIRE’s responsibilities for archaeological review of CAL FIRE projects funded by the USFS. This PA was superseded by a new PA in 2004 that is broader in scope to include CAL FIRE projects utilizing federal funds provided by the Bureau of Land Management (BLM) and United States Department of the Interior, Fish and Wildlife Service (FWS) in addition to the
II. Procedures for Archaeological Reviews of CAL FIRE Projects

**Preliminary Study:** The first step in the process of conducting an archaeological review of a CAL FIRE project is the completion of a Preliminary Study. This study should be undertaken by the CAL FIRE project manager in consultation with the appropriate CAL FIRE Archaeologist. If the CAL FIRE project manager does not have current CAL FIRE archaeological training as described on pages 2 through 5, then the CAL FIRE project manager shall appoint a designee who has current CAL FIRE archaeological training, and who is familiar with the details of the proposed activities and locations. The purpose of the Preliminary Study is to determine if impacts to cultural resources are possible. This determination shall be made after considering the full range of specific project activities and practices, the location of the project, and other relevant factors.

The Preliminary Study will be conducted during a telephone conversation or face-to-face meeting between the CAL FIRE project manager and the appropriate CAL FIRE Archaeologist. Prior to this telephone conversation or face-to-face meeting, the CAL FIRE project manager shall provide the CAL FIRE Archaeologist with a copy of the project map(s) as well as a description of the proposed project in order to provide the adequate information the Archaeologists need to assess the likelihood of the presence of cultural resources. CAL FIRE Archaeologists are regularly available each week to participate in telephone consultations and assist in the completion of Preliminary Studies for CAL FIRE projects. The CAL FIRE project manager and CAL FIRE Archaeologist shall identify and evaluate the full range of project activities and compare those activities to the list of Exempt Practices provided in this document.

If the Preliminary Study concludes that the proposed project does not have the potential to affect cultural resources, pursuant to the list of Exempt Practices (listed below), or other circumstances, then an archaeological survey would not be required. The CAL FIRE Archaeologist must concur with this finding. In such cases, a records check, Native American notification, prefield research, and survey report are not required. Archaeological clearance of the project must be documented in the form of a letter to the project file (prepared by the CAL FIRE project manager) that indicates the rationale supporting the decision to waive archaeological survey requirements. A copy of this letter shall also be sent to the appropriate CAL FIRE Archaeologist for his/her file.

The CAL FIRE project manager (or their designee) shall conduct an intensive cultural resource survey if the Preliminary Study reveals the potential to affect cultural resources. In most situations, this survey will include all of the procedural steps discussed below and shown on the Cultural Resource Review Procedures flow chart on page 7 of this document. Barring an unusual exception noted below, the list of tasks specified in Cultural Resource Survey Procedures shall be completed as part of the cultural resource review for every CAL FIRE project determined to have the potential to affect cultural resources. During the review of certain projects, the CAL FIRE project manager may determine that one or more of procedural steps 1 through 3 could be omitted. However, the concurrence of a
Cultural Resource Review Procedures

**PROJECT PROPOSED**

*Preliminary Study* to Determine if Impacts to Cultural Resources are Possible

- **No Impacts Expected**
  - Cultural Resource Survey Not Required
    - Complete Letter to The Project File Documenting Why Survey Was Not Required

- **Impacts Possible**
  - Cultural Resource Survey Required
    - Records Check
    - Native American Notification of Project
    - Conduct Prefield Research
    - Consultation with CAL FIRE Archaeologist
      - Survey
        - Develop Protection Measures Consult with Native Americans, if Applicable
        - Record Sites
          - Complete Archaeological Survey Report

CAL FIRE Archaeologist Provides Approval Signature Once Investigation and Report Have Been Satisfactorily Completed

Archaeological Clearance

* see discussion on page 6 for exceptions to the use of this flow chart
CAL FIRE Archaeologist must be obtained in order to bypass any of these steps. The best way to track this concurrence is through email documentation.

In general, any project that includes ground disturbing practices shall be considered to have the potential to affect cultural resources and, consequently, shall require an archaeological survey. Typical examples of such practices include, but are not limited to, any type of use of heavy equipment to alter the landscape, site preparation, forestland conservation work such as erosion control, road repair, stabilization and abandonment of road beds, improvement of drainage facilities, and/or stream bank stabilization. Other types of projects may also require archaeological survey in spite of limited disturbance to the ground. Such projects include, but are not limited to, rural tree planting, prescribed burning, broadcast burning, and the burning of slash piles. CAL FIRE generally does not fund projects resulting in the planting of commercial species trees within the boundaries of archaeological sites. This practice is due to the possibility that eventual harvest of such trees might be prohibited by CAL FIRE enforcing California’s Forest Practice Rules since timber harvesting operations can affect cultural resources. For this reason, archaeological survey shall be required prior to funding most tree planting projects in order to identify and avoid sites.

**List of Exempt Practices:** Because they are unlikely to impact cultural resources, the following practices are exempt from archaeological survey, investigation, and reporting requirements. An archaeological records check, notification to Native Americans, prefield research, intensive cultural resource survey, or the completion of an archaeological survey report are not required for projects that involve only these practices.

1. **Management Plan:** A long term forest and land management plan to assist forest landowners in developing their land management objectives and feasible projects. The preparation of a forest land management plan is not, in itself, a ground disturbing practice and may be funded without an archaeological survey. In such cases, archaeological survey must precede any ground disturbing practice called for in the plan. However, CAL FIRE recommends the inclusion of some level of cultural resource planning in the management plan itself, such as a record search for the entire property, an overview of local archaeology, ethnography, and history as it relates to predicting the kinds of cultural resources likely to exist on the property, and a discussion regarding future archaeological survey work and how sites will be managed. This exemption also includes Coordinated Resource Management Planning, Fire Plans, and other forms of broadly scoped planning efforts by CAL FIRE that do not result in ground disturbing practices.

2. **RPF Supervision:** The practice of utilizing a Registered Professional Forester to supervise on-the-ground management activities.

3. **Feasibility Studies and Market Analysis:** The practice of conducting studies to determine the feasibility of future projects including, but not limited to, an investigation of the marketability of certain products derived from such projects.

4. **Purchase of Tree Seeds and Seedlings:** The purchase of tree seeds and seedlings and costs of transporting and storing them. Note: The actual planting of seeds or small seedlings in rural forested areas is not an exempt practice. While such planting may be conducted without significant ground disturbance, CAL FIRE generally does not approve funding for projects resulting in the planting of commercial species trees within archaeological site boundaries. California’s Forest Practice Rules may restrict or prohibit the eventual harvest of such trees.
since the harvesting of commercial size trees is a practice that has potential to damage or destroy cultural resources. For these reasons, archaeological survey is required prior to funding most tree planting projects in rural forested areas in order to identify and avoid archaeological and historic sites.

5. **Tree Shelters**: The purchase and installation of vexar netting for browse control and shelter cards for shade necessary to assure survival of seedlings.

6. **Follow-up (Release)**: Practices necessary to promote the survival of seed or seedlings within 36 months of planting. Generally such work is intended to control insects, diseases, rodents, weeds or brush competition and may include the use of herbicide, chain saw, weed-eater, or hand-grubbing. These practices are only implemented within tree planting units where an intensive cultural resource survey, conducted in accordance with the specifications and standards listed in this document, was completed. This follow-up work is exempt from further review because the cultural resource inventory work does not need to be repeated. If, for some reason, follow-up activities are considered for treatment units that were not previously subjected to intensive cultural resource survey, these activities shall not be considered exempt.

7. **Timber Stand Improvement**: Activities designed to improve timber stands include pre-commercial thinning of young commercial tree species to reduce the number of stems per acre, release of commercial tree species by removing competing noncommercial species of trees and shrubs, and pruning of young trees by removing lower branches from commercial tree species. This work will usually be done by crews using hand tools and the slash is just left on the ground, typically lopped and scattered. Note: if the slash will be piled and burned, or mechanically collected and removed for biomass utilization, those activities may not be exempt. Some biomass harvesting operations can cause significant ground disturbance and, therefore, have the potential to disturb/damage archaeological and historic sites.

8. **Wildlife Habitat Improvement**: The creation of snags, installation of nest boxes, roost poles, platforms, or artificial cavities for animal habitat improvement where the ground is not disturbed.

9. **Reseeding**: Hand or aerial applications of seed or nutrients.

10. **Mulch**: Hand application of mulch, placement of weed barriers, hay bales, or animal repellant.

11. **Irrigation**: Surface installation of trickle irrigation system.

12. **Educational Materials and Events**: Production and distribution of flyers, pamphlets, brochures, booklets, newsletters, telephone helpline, videos, etc.; conducting meetings, seminars, conferences, classes, etc. to educate and disseminate information to landowners; and, lastly, the funding of CAL FIRE staff and contractors to deliver technical assistance to landowners.

13. **Conservation Easement and Fee Title Purchase**: Acquisition of easements and fee title purchase of forest lands with the intention of keeping the lands in traditional forest uses and to prevent conversion to nonforest uses. The title will be held by either federal, state or local government.
14. **Acquisition:** Land acquisitions or transfers of administrative control to CAL FIRE, where the historic properties received are not considered in exchange for any historic properties relinquished.

15. **Urban Forestry Projects:** Purchase and transport of trees and the planting of native and non-native species of trees in urban settings. Typically, these settings occur in areas previously landscaped such as within public parks or schools. Such projects also occur in street medians and along sidewalks within developed areas. Note: Most of these projects will not require archaeological survey unless known cultural resources exist in a planning location or the area possesses high archaeological sensitivity. If the urban forestry grant proposes to plant trees in undeveloped wildland settings, such projects are not exempt and will require archaeological survey. Similarly, the planting of trees suitable for the purpose of creating a windbreak in a rural or agricultural setting is not exempt. Note: Trees can be an important part of a historic landscape in both rural and urban areas. CAL FIRE project managers should keep in mind that planting new trees in a historic district or on the property of a historic building may affect the setting of that historic property. In such situations the appropriate CAL FIRE Archaeologist should be consulted at an early stage of project planning.

16. **Shaded Fuelbreaks (Handwork Only):** Thinning and pruning of trees, generally along both sides of a road or along the crest of a ridgetop, to create an effective fuelbreak to potentially stop a wildfire, provided such trees are not part of a historic landscape. The accomplishment of such projects involves removal of vegetation by hand, lopped and scattered or chipped and scattered. Note: Shaded fuelbreak projects involving mechanical timber harvesting or the piling and burning of slash are not exempt.

17. **Fire-Safe Projects:** Treatment of vegetation surrounding communities to reduce the risk of catastrophic wildfires through thinning and/or removal of vegetation by crews using hand tools. To be exempt such projects must involve the chipping and removal of woody material or the chipping and scattering of woody material. Note: Fire-Safe Projects involving the piling and burning of slash are not exempt.

18. **Disposal of Piled Brush:** This activity involves the disposal and removal of brush piles. CAL FIRE often administers federal grants to provide chipping and removal of biomass to homeowners doing their own legally mandated defensible space clearing required by PRC 4291. In these instances, the treatment of the vegetation is not a CAL FIRE project and CAL FIRE’s responsibility for environmental review only pertains to the disposal of brush piles. A chipper may be utilized to chip and scatter woody material near the brush piles. If brush piles will be collected and transported to a location for biomass utilization, those activities must be carefully evaluated for potential effects to cultural resources.

19. **Diseased Oak Removal:** Activities related to the eradication, gathering and removal of diseased oak trees, limbs and slash from oak trees, including, but not limited to, infestation zones of *Sudden Oak Death* without causing significant ground disturbance. Note: Ground disturbing practices such as stump removal, mechanical yarding, site preparation, and/or the burning of slash piles, are not exempt activities and will require archaeological survey.

20. **Fuelwood and Christmas Trees:** The collection and personal use of fuelwood and the harvesting of Christmas trees.
21. **Sign Posts**: The installation of sign posts and monuments, when no new ground disturbance is involved.

22. **Log Jam Removal**: The removal of log jams and debris jams using hand labor or small mechanical devices.

23. **One Cubic Meter Disturbance**: Activities that involve less than one cubic meter of cumulative ground disturbance per acre.

24. **Disturbed Areas**: Those activities or projects where the area of potential effect (APE) is entirely within obviously disturbed contexts, and the disturbance is such that the presence of historic properties is considered highly unlikely.

25. **Pesticides**: The application of pesticides where such application does not have the potential to affect use of plant resources by Native Americans. The CAL FIRE project manager may need to demonstrate how Native American plant gatherers will be protected.

26. **Existing Borrow Pits**: Work within the perimeter of existing material borrow pits. Expansion of the area of ground disturbance to outside of the existing borrow pit is not exempt.

27. **Stream Channels**: Activities limited within stream channels. Note: stream channel improvements resulting in alterations to streamside terraces or cut banks along the margins of stream channels are not exempt.

28. **Handlines**: The creation of narrow handlines using hand tools to establish a burn perimeter. Handlines are often used to keep prescribed fire from entering into an archaeological site. This includes hand grubbing around trees or near cultural resources to prevent fire from entering or damaging such resources. Such activities are limited to light brushing of vegetation to expose mineral soil using handtools.

29. **Trail Maintenance**: Routine trail maintenance limited to brushing and light maintenance of existing tread with hand tools only.

30. **Road Maintenance**: Routine road maintenance and resurfacing where work is confined to previously maintained surfaces, ditches, culverts, and cut and fill slopes along road segments crossing no known archaeological or historic sites. Proposed road maintenance activities within known archaeological or historical sites must be carefully reviewed by the CAL FIRE project manager in consultation with the appropriate CAL FIRE Archaeologist.

31. **Hazard Tree Removal**: The felling of hazardous trees within recreation areas or other areas for health and safety reasons provided they are left in place or cut up for firewood using hand tools. This includes the felling and removal of hazard and windthrow trees from road prisms where deemed necessary for health, safety, or administrative reasons, so long as trees are felled into and removed from within existing road prisms (area clearly associated with road construction, from road surface to top of cut and/or toe of fill) where previous disturbance is such that the presence of historic properties is considered unlikely, and so long as ground disturbance is strictly limited to previously disturbed areas associated with road prisms.
32. **Road Use Permits**: The issuance of road use permits for commercial hauling over existing roads, whenever CAL FIRE’s involvement is incidental to activities associated with the permit's purpose and where effects to traditional cultural properties are not expected. If the permit includes road maintenance work on state lands, consideration must be given to known cultural resources that might be affected (see Exemption #30).

33. **Temporary Road Closure**: Temporary road closures involving no new ground disturbance.

34. **Snow Fences**: The construction of snow fences where no new ground disturbance is involved.

35. **Existing Nonstructural Facilities**: The maintenance or replacement in-kind of existing nonstructural facilities that does not involve new or additional ground disturbance (e.g., maintenance or replacement of existing cattle guards, gates, fences, stock tanks, guardrails, barriers, traffic control devices, light fixtures, curbs, sidewalks, etc.).

36. **Recent Facilities**: Activities or alterations involving facilities or structures that are less than 50 years of age. For activities involving CAL FIRE buildings or facilities older than 50 years of age, consult the *Management Plan for CAL FIRE’s Historic Buildings and Archaeological Sites* (Foster and Thornton 2001), available on the CAL FIRE Archaeology Program Web Site, for guidance.

37. **Trash Removal**: The removal of trash that is less that 50 years old and does not otherwise qualify as a cultural resource.

38. **Installation of Law Enforcement Detection Devices**: The installation of law enforcement detection devices within historic properties to assist investigations of site looting and to prevent site vandalism where such installation is unlikely to cause substantial adverse change to the site. The CAL FIRE Archaeologist must be involved in the planning of this type of project.

39. **Purchase of Equipment**: The purchase of tools and equipment (such as a chipper) that may be utilized in subsequent projects for the treatment of brush and other vegetation. The purchase of such equipment shall be considered an exempt practice.

40. **Project Areas Previously Surveyed**: Project activities which are entirely within areas previously surveyed for cultural resources where no cultural resources were found, if the previous survey work was conducted in accordance with the specifications and standards listed in this document.

41. **Other Practices**: Other practices on an individual basis as agreed to by a CAL FIRE Archaeologist. If the project is federally funded, the State Historic Preservation Officer (SHPO) and the federal agency funding the project must also agree that the practice is exempt.

**Cultural Resource Survey Procedures**: Archaeological surveys for CAL FIRE projects must include the following tasks (these match the flow chart on page 7):

- **Records Check**: A *current archaeological records check* (defined in Section 895.1 of the Forest Practice Rules) shall be utilized in project planning. CAL FIRE may use an existing records check previously completed for another project on the same property if that records check is current (i.e.,
was conducted within the previous five years) and if all of the current project areas were covered in the previous records check. For CAL FIRE properties, consult with a CAL FIRE Archaeologist first to find out if a records check has already been completed for the property. Typically, however, the CAL FIRE project manager or designee shall initiate a new archaeological records check specifically for the project being reviewed. It is recommended that the entire parcel be included in the request for a records check so that this information may be used if additional projects occur on the same property. This is particularly true if the records check is initiated as part of the preparation of a forest land management plan. The policies and procedures governing records checks for CAL FIRE projects are outlined in a 1996 Memorandum of Agreement (MOA) between CAL FIRE, SHPO, and the Information Centers, which is available on the CAL FIRE Archaeology Program Web Site. The Information Centers charge a fee for providing a records check and this fee must be paid in a timely manner. For some programs, the CAL FIRE Unit pays the fee. In other programs, the fee might be paid by the consulting RPF preparing a management plan or project in one of our cost-share programs. In such circumstances the records search fee may be reimbursed by CAL FIRE. In other circumstances the landowner or applicant may have to pay the fee. In some years, certain CAL FIRE programs establish a fund to be used for records check fees. The CAL FIRE Archaeology Program Web Site also contains a downloadable form to be completed when requesting an archaeological records check.

Native American Project Notification and Information Gathering: The CAL FIRE project manager shall send written notification of the proposed project to the appropriate Native Americans listed on the most current version of CAL FIRE’s Native American Contact List (NACL) which is also available on the web site. The purpose of this notification is to inform Indian tribes, local Native American groups and the Native American Heritage Commission (NAHC) about the proposed project, and also to invite their views and comments about the project. It also serves as an information gathering step. Through this procedure, the CAL FIRE project manager shall request information concerning the location of any archaeological or cultural sites that may be known within the project area. In response, the NAHC will complete a check of its Sacred Lands File. CAL FIRE shall follow-up and investigate any potential positive result revealed through this request for information. We recommend this step be completed early in the process of developing a project (such as the same time as the archaeological records check) in order to avoid delays, allow time for Native American groups and/or individuals to respond, and create the opportunity to document the results of any consultation that may follow receipt of the notification letters and include this in the archaeological survey report. Use the most current version of the NACL available at the time the environmental impact review is being conducted. This list is updated monthly and the current list is usually posted during the first week of each month. The notification letter must include the following items:

- A request for information concerning their knowledge of archaeological, historical, or other cultural resources within the project boundaries,
- A description of the project location including the county, section, township, range, base and meridian, and the approximate direction and distance from the nearest community or well-known landmark,
- Two maps—a general location map such as a Thomas Brothers Map that shows the travel route from the nearest community or well known landmark to the project area and a copy of the relevant portion of the USGS topographic quadrangle map clearly depicting the location of the project boundaries as well as a map legend and scale,
- A statement that all replies, comments, questions or other information should be directed to CAL FIRE and provide the name, address, and telephone number of the CAL FIRE project manager,
A statement that CAL FIRE is requesting a response within thirty days from the date of the notice so the information can be utilized during project planning,

A statement that the Native American groups and/or individuals may participate in the project review process by submitting written comments to CAL FIRE within 30 days,

A statement that locations of sites disclosed will be kept confidential.

Additional guidance pertaining to consultation with Native Americans is provided on our web site at [http://www.indiana.edu/~e472/CAL FIRE/contacts/procedures.html](http://www.indiana.edu/~e472/CAL FIRE/contacts/procedures.html)

**Prefield Research:** The CAL FIRE project manager, designee, or archaeologist working on the cultural resources survey shall conduct appropriate levels of prefield research as part of the investigation. The purpose of this research is to get prepared to conduct the survey, become familiar with the types of resources likely to be encountered within the project area, and to be ready to interpret, record, and evaluate these findings within the context of local history and prehistory. The investigator should review records, study maps, read pertinent ethnographic, archaeological, and historical literature specific to the area being studied, and conduct other tasks to maximize the effectiveness of the survey. The *Handbook of North American Indians - Volume 8 – California* (Smithsonian Institution 1978) and the *Handbook of the Indians of California* (Kroeber 1925) are two primary ethnographic sources; at least one of which should be reviewed.

Determine which tribal group or groups occupied the area containing the proposed project and review information about those tribal groups. Another excellent source that should be checked every time is the General Land Office (GLO) plat maps for the township containing the project. Most GLO plat maps date from the 1850s to the 1870s although some are as late as 1900. The GLO surveyors often mapped homesteads, cabins, orchards, roads, trails, fencelines, mining areas, etc. that were observed during their survey. If any such features are depicted on the map within what is now the project area, a careful search should be made for surviving remnants of them or of unmapped associated features or artifacts. GLO plat maps can be an excellent source for dating historic features discovered on your archaeological survey. The GLO surveyor’s notes usually accompany the plats and review of these is sometimes useful as well. GLO plat maps and records may be obtained through the mail or in-person at the Bureau of Land Management Office of Survey Records in Sacramento. It is prudent to call first: (916) 978-4330. The BLM usually charges a small fee per copy (24” X 36”’') but BLM has waived the fee for CAL FIRE. GLO plat maps are also kept on file at some of the Information Centers. Those Information Centers may provide a copy of a relevant portion of a GLO plat map as part of a Complete Records Check, if so requested. Old topographic maps, if available, should be examined for the locations of old houses, roads and other features that may have been displayed on these early maps but not on current USGS topographic quadrangle maps. Consulting a series of aerial photographs taken over a period of time can help date historic structures and aid in the assessment of the types of previous land-use practices and prior ground disturbances. Persons contacted should include individuals belonging to any local historical society, agency archaeologists, landowners, ranchers, neighbors, and/or other knowledgeable individuals that may have lived or worked in the area being studied. Prefield research should also include a review of archaeological reports (either survey reports or excavation reports) and/or site records for the local area. This review will provide specific examples of the kinds of cultural resources that have been previously discovered in the general area, a discussion of archaeological, historical, and ethnographic information pertaining to the area being studied, and examples of typical artifact assemblages. Look for site location patterning and the types of artifacts or features being recorded. For projects on CAL FIRE facilities or state-owned lands, be sure to review *CAL FIRE’s Management Plan for Historic Buildings and Archaeological Sites* (Foster
and Thornton 2001), and *A Survey and Historic Significance Evaluation of the CAL FIRE Building Inventory* (Thornton 1994). This two-volume report includes a complete listing of all CAL FIRE buildings and provides the date of construction for each building. For projects containing CAL FIRE lookouts, review *An Inventory and Historical Significance Evaluation of the CAL FIRE Lookout Stations* (Thornton 1993). This volume also provides the age and historical significance of each surviving CAL FIRE lookout facility.

**Consultation with a CAL FIRE Archaeologist:** After the records check, Native American project notification, and prefield research steps have been completed, the CAL FIRE project manager shall consult with a CAL FIRE Archaeologist to review these findings and determine appropriate survey strategy and methods. It will be determined at this time whether or not a CAL FIRE Archaeologist is available to assist in the completion of the survey, or if this work will be conducted entirely by an archaeologically trained resource professional.

**Survey:** An intensive cultural resource survey shall be made of the Area of Potential Effect (APE) of the project area. Such a survey shall only be performed by a *professional archaeologist*, or an *archaeologically trained resource professional* as defined in the Forest Practice Rules – if determined appropriate by the reviewing CAL FIRE Archaeologist. In most cases the work will be done by the CAL FIRE project manager, possibly assisted by a CAL FIRE Archaeologist. It is possible, however, that the survey work will be completed by a consulting RPF or professional archaeologist retained by the landowner, as part of the grant, or retained by CAL FIRE. In all cases, however, the work will be completed under close supervision by a CAL FIRE Archaeologist. The objective of this survey is to identify the specific location of all cultural resources within the project area, including but not limited to: historic landscapes, prehistoric or historic archaeological sites, features, or artifacts, historic buildings or structures, or other types of resources that have significant cultural importance to Native Americans such as traditional cultural properties, cemeteries, gathering areas, and/or sacred sites. In some situations, archaeological survey work may be delayed until after the project has begun. For example, certain exempt practices may begin without archaeological survey, and this staggered approach may be necessary to determine the precise location of Areas of Potential Effect for subsequent activities. Fuels reduction projects involving hand cutting of brush and the burning of brush piles are typical examples of the kinds of projects where archaeological survey may take place after the exact location of the brush piles becomes known.

Survey methods and techniques employed to achieve adequate coverage will vary based upon a variety of factors. These include the physical characteristics of the property, especially topographic and other environmental attributes, and other information gathered during the records check, in response to the Native American information request, and/or other prefield research, as well as the results of archaeological inventories in areas with a similar cultural and natural setting. There are four different levels of archaeological survey coverage intensity: complete, general, intuitive, and cursory. These are described below:

- **Complete** A complete reconnaissance is one in which archaeologically-trained individuals systematically traverse the area at 10 meter intervals or less, looking carefully for all evidence of prior human activity. Team members usually walk abreast. All archaeological phenomena in a given area may not be visible or as easily definable at the same time: different seasons, varying light conditions, differential erosion, and/or deadfall and duff cover may obscure the investigator’s vision or reveal certain remains at different times. Nevertheless, most features should be observable to a trained surveyor walking over the
entire area under investigation in a complete manner. Coverage shall be sufficient to allow the investigator to encounter the smallest of the archaeological sites likely to occur in the area under study. Spacing must be narrow enough and ground cover must be modified (if it is an observational problem) to the extent that will allow the investigator to locate the sites. If needed, ground cover modifications (e.g., systematic removal of duff) shall be used to allow inspection of mineral soil for evidence of human activity. During a complete reconnaissance areas will be encountered that could contain archaeological remains (such as prominent rock outcroppings, benches, suspicious-looking features, possible artifacts, etc.). These areas should be intensively examined to determine if archaeological remains are present before transect coverage is resumed.

- **General**  A general reconnaissance is one in which an attempt is made to systematically cover an area as in a complete reconnaissance but with wider transect intervals. This might be due to steepness of slope, absence of water, or because of other physical conditions or observational constraints (e.g., deadfall, brush, steep slopes). Transect spacing may be increased to 30 meters.

- **Intuitive**  Detailed inspection is given only to specific localities that exhibit previously identified characteristics that may be associated with the location of archaeological properties. Coverage is usually accomplished by traverses 30-50 meters apart. For example, if the reconnaissance is within a steep timberland and controlled studies show that remains of historic activities are not expected for the area and prehistoric sites occur only on benches and near springs, the investigator might then be justified in covering the area in a manner sufficient to locate those natural phenomena that have potential for association with the location of archaeological sites. Detailed inspection is reserved for those areas identified as archaeologically sensitive. Localities within low potential areas that shall receive detailed inspection in this study include springs, seeps, and low rises in flat plains.

- **Cursory**  A cursory reconnaissance is one in which the inspector gives the areas a quick field inspection rather than intensive coverage. Sometimes these areas can be examined by walking briefly through and checking likely or probable spots close to the line of travel. Such methods should be employed along with visual aids (e.g., aerial photographs) to ensure that specific localities that exhibit characteristics that may be associated with archaeological site locations are not overlooked. The environmental factors that should be scanned for have been mentioned above.

**Develop Protection Measures:** CAL FIRE shall develop effective protection measures for all identified cultural resources located within project areas. These measures may include adjusting the project location or design to entirely avoid cultural resource locations or changing project activities so that damaging effects to cultural resources will not occur. These protection measures shall be written in clear, enforceable language, and shall be included in the archaeological survey report. CAL FIRE shall exercise a strategy of avoiding all adverse impacts to cultural resources. If impacts to cultural resources cannot be avoided, CAL FIRE is responsible for developing specific, effective measures to ensure the mitigation/reduction of impacts to cultural resources in order to avoid or prevent substantial adverse change as defined in state law (PRC Sections 5020-5024, 210833.2, 21084.1, and CCR Sections 15064.5 through 15360).

**Consultation with Native Americans:** In the event that *Native American Archaeological or Cultural Sites* (defined in the Forest Practice Rules) are identified within a project area, CAL FIRE shall
notify Native Americans regarding the existence of such sites, provide information regarding the proposed protection measures, and provide Native Americans the opportunity to submit comments and participate in consultation to resolve issues of concern.

If, during review of certain CAL FIRE projects, the typical practice of allowing 30 days for reply to this second notice will create difficulties, the CAL FIRE project manager may consult over the telephone or through a face-to-face meeting with each required tribal contact and document this consultation in Part 3 of the report.

Record Sites: CAL FIRE shall record all archaeological or historical sites discovered within project areas. This recording work shall be conducted in accordance with the policies specified in OHP’s *Instructions for Recording Historical Resources* (1995). Additional guidance for site recording is provided in CAL FIRE’s *Suggestions for Preparing Archaeological Site Records and Site Maps* (2001). Both of these documents on site recording procedures and the forms used to record them are available on our web site. CAL FIRE is occasionally requested by Native American groups to not record certain types of cultural resources (such as ceremonial or sacred sites) as a condition upon their disclosure. In such instances, CAL FIRE will honor the request and not record these types of sensitive cultural resources, although some information will be included in the Survey Report.

Complete Archaeological Survey Report: CAL FIRE shall ensure that an archaeological survey report is completed for every cultural resource survey conducted for a CAL FIRE project. This report will be prepared using CAL FIRE’s *Archaeological Survey Report Form for CAL FIRE Projects* (available on our web site) or an equivalent format containing the same information in the same order. Detailed instructions for completing this report are provided in Chapter III beginning on page 18.

CAL FIRE Archaeologist Provides Approval Signature Following Satisfactory Completion of Investigation and Report: A CAL FIRE Archaeologist shall carefully review all archaeological survey reports prepared for CAL FIRE projects. This review shall include elements of completeness, accuracy, content, and professional adequacy. If necessary, this review shall include a field inspection to examine cultural resource discoveries, spot-check areas to test adequacy of survey coverage, and review of site records in field settings. Most importantly, this review shall include a careful review of the proposed protection measures to ensure that the project has been designed or redesigned to be in full conformance with applicable state laws, regulations, and other mandates such as Programmatic Agreements, EIRs, and/or current professional standards. The CAL FIRE Archaeologist shall provide approval signature ONLY after the investigation and report have been satisfactorily completed. The CAL FIRE Archaeologist shall ensure that a clean, complete copy of the survey report is provided to the appropriate Information Center for permanent retention. The CAL FIRE project manager shall ensure that a copy is included in the appropriate project file to demonstrate compliance with these procedures.

Archaeological Clearance: Archaeological clearance shall be given only after all these procedural steps have been completed and documented in the project file. This documentation shall include either a letter to the file or a survey report signed and approved by a CAL FIRE Archaeologist.

Procedures for Post-Approval Discovery of Cultural Resources: If a cultural resource is discovered within a project area after the project has been approved, the following procedures apply:

1. Project activities within 100 feet of the newly discovered cultural resource shall be immediately
halted.
2. The appropriate CAL FIRE Archaeologist shall be immediately notified.
3. The CAL FIRE Archaeologist shall evaluate the new discovery and develop appropriate protection measures.
4. The CAL FIRE Archaeologist shall investigate how the project was reviewed for cultural resources to determine if the cultural resource should have been identified earlier.
5. The CAL FIRE Archaeologist shall ensure that the newly discovered site is recorded and its discovery and protection measures are documented in the project files.
6. For discoveries made on federally funded CAL FIRE projects, the CAL FIRE Archaeologist shall notify and consult with the federal agency funding the project and the SHPO prior to authorizing recommencement of project activities near the newly discovered site.
7. If the newly discovered site is a Native American Archaeological or Cultural Site (defined in the Forest Practice Rules), the CAL FIRE Archaeologist shall notify the appropriate Native American tribal group and the NAHC, if appropriate.

**Private Landowner Involvement:** Many CAL FIRE projects are located on privately owned lands. CAL FIRE shall respect landowner’s rights when implementing these procedures. This courtesy includes notifying the landowner(s) of CAL FIRE’s cultural resource responsibilities and inviting their comments and participation. Landowners shall be notified regarding the scheduling of archaeological survey or other inspection work carried out by CAL FIRE and given the opportunity to comment on and participate in such inspections. CAL FIRE shall provide a copy of any completed survey reports to the appropriate landowner(s), if so requested. Landowners shall also be advised that such reports containing specific site locations are confidential and shall not be distributed to the public.

### III. Completing the CAL FIRE Archaeological Survey Report Form

**Introduction:** The purpose of the *CAL FIRE Archaeological Survey Report Form* is to document the results of an archaeological survey and impact assessment, demonstrate completion of required tasks, identify specific protection measures, and ensure review and approval by a CAL FIRE Archaeologist to support the Department’s approval of the project. This information is kept by CAL FIRE but not made available to the general public in order to prevent disclosure of sensitive resource locations to unauthorized individuals. Once approved, the completed report is forwarded to the appropriate Information Center of the California Historical Resources Information System for permanent retention so that this information can be added to the state’s database of cultural resources and benefit future management or research on the property. The current version of the *Archaeological Survey Report Form for CAL FIRE Projects* was created in January 2003 and was designed to closely follow the recently revised Confidential Archaeological Addendum for THPs. A downloadable version of the form is available from the CAL FIRE Archaeology Program Web Site at [http://www.indiana.edu/~e472/CAL FIRE/forms/forms.html](http://www.indiana.edu/~e472/CAL FIRE/forms/forms.html) or through written request by email to any of CAL FIRE’s staff Archaeologists. The survey report form is designed to document investigations for typical CAL FIRE projects. Complex investigations, such as those requiring site testing, may require additional documentation. This report form is intended for use by a CAL FIRE resource professional who has completed archaeological training. The investigation documented in the report shall be conducted under the guidance of a CAL FIRE Archaeologist for professional review and concurrence with findings.
Title Block and Footer: The title block must contain the name of the project, county, author’s name, author’s affiliation, address, and phone number. Provide the date the report was written. [Be sure to delete the parentheses which were placed on the form only to guide the insertion of the appropriate project specific information.] The following are typical examples of how the title block should appear:

An Archaeological Survey Report for the Rice Canyon VMP Project Lassen County, California by: Joe Forester, RPF #0001 Unit Forester, Lassen-Modoc Unit 697-345 Highway 36 Susanville, CA 96130 (123) 456-7890 January 23, 2003

An Archaeological Survey Report for the Well Replacement and Utility Trenching at the CAL FIRE Coalinga Forest Fire Station Fresno County, California by: Susan Jones, Battalion Chief Coalinga Battalion, Fresno-Kings Unit California Department of Forestry and Fire Protection 640 West Elm Avenue Coalinga, CA 93210 (123) 456-7890 March 1, 2003

Insert the name of the project into the space created in the footer. The CAL FIRE Archaeologists request that the name of the project appear in small, italicized font as a footer on each page. To insert the information, open the survey report to page 2, click on View, then select Headers and Footers. Click the third button to the left of Close which will switch to the footer and display the prompter to insert the project name. After entering the name and deleting the prompter and parentheses, select Close and save the file. The name of the project should now appear in small italicized font on the bottom of each page except the first page.

Part 1: Project Information: Provide the project number and the name of the CAL FIRE project manager. Include the title, headquarters location and telephone number of the project manager if the project manager is not the author of the report. The author of the report is usually also the project manager and archaeological surveyor. In such instances the address and telephone numbers do not need to be repeated in Parts 1 and 5. Indicate the size of the project, usually in acres, although linear projects (such as shaded fuelbreaks) can be described differently. Provide the name of the 7.5 minute topographic quadrangle map, the name of the landowner or landowners, and the legal location. Briefly discuss the source of funds supporting the project. Indicate if the project includes state funds, federal funds, or both. For projects involving federal funds, indicate the federal agency that provided funding. This funding information is needed to comply with Programmatic Agreements and to prepare annual reports specified in those agreements. Provide a brief project description and be sure to include a discussion of all ground disturbing activities.

Part 2: Archaeological Records Check Information: A current archaeological records check conducted at the appropriate Information Center (IC) of the California Historical Resource
Information System must have been conducted for the project area. A request form and additional instructions are available on our web site. Indicate the date this check was completed and attach a copy of the completed records check request, maps, and reply from the Information Center (IC) including mapped information. Provide the IC file number and summarize the results of the records check discussing whether or not archaeological or historical sites are known or suspected to exist within the project area, and whether or not the property has a previous archaeological investigation on record.

In some instances, CAL FIRE project managers will be using a different method to complete an archaeological records check. CAL FIRE maintains a database of information on cultural resources on Demonstration State Forests, and these sources may be reviewed in lieu of a typical records check at the IC if the database has been kept current. CAL FIRE also keeps records on archaeological surveys for many of its facilities. CAL FIRE must update its database every five years for those sources in order for that database to continue to be an adequate and legal alternative to IC record checks for every project.

Part 3: Native American Consultation Information: The first half of this section must be completed for all projects. It documents the first notice and information request sent to Native Americans. The second half, beginning with the phrase “Date Notification Letters were sent to Native Americans (if applicable)” must be completed only in those instances where a Native American archaeological or cultural site was confirmed to exist within the Area of Potential Effect for the project. In the first part, provide an example of an information request letter that was sent, including the maps. Be sure the information request letters include all of the information and statements identified on pages 13-14 of this document.

List all of the Native American contacts that you provided written notification about the proposed project, the date of the CAL FIRE Native American Contact List that you used to determine the appropriate tribal contacts, and the date your letters were sent. Check the appropriate box pertaining to the results of this request and check the appropriate box pertaining to the presence or absence of Native American archaeological or cultural sites identified within the CAL FIRE project area. If you check “No” (that such sites have not been identified), then you may delete the remaining portions of the form in this section or leave them blank. We recommend that you delete those portions of the form if they do not apply to the report being prepared. If you check “Yes” (that such sites have been located within the project) you will need to send additional noticing to Native Americans and discuss the results in Part 3. To avoid delays in project approval, send the second letters immediately after the survey has been completed and protection measures have been determined, in consultation with the CAL FIRE Archaeologist. This second letter should contain the following:

- the name, address, and telephone number of the CAL FIRE project manager sending the notice,
- the name, number, or other designator of the CAL FIRE project,
- a list of all known Native American archaeological or cultural sites located within the project area, including a name, number or other designator, and a brief description of each site,
- a brief discussion of how each site shall be protected,
- a statement that written comments may be submitted for CAL FIRE’s consideration at the address provided if received within 30 days.

If, during review of certain CAL FIRE projects, the typical practice of allowing 30 days for reply to this second notice will create difficulties, the CAL FIRE project manager may consult over the telephone or through a face-to-face meeting with each required tribal contact and document this consultation in Part 3 of the report.
There may be times, such as when working on a project that has previously surveyed, when you know the location of the Native American archaeological or cultural sites and appropriate, specific, enforceable protection measures prior to starting your project. You have the option of combining the two letters into one if you make sure that you include all information required for both letters. If there are any changes to the project, such as the discovery of new (i.e., previously unrecorded) archaeological sites during additional surveys, or changes to the protection measures, you would then have to send an additional notification letter to the Native American groups and individuals previously contacted.

**Part 4: Prefield Research:** The prefield research will help you determine where you are going to intensify your survey and what you should be looking for. Suggestions for conducting prefield research were provided on pages 14-15 and are not repeated here. Be sure to list the literature reviewed and the persons contacted during the required prefield research, and most importantly, provide a summary of the results of this research as it relates to this project. The following statement in quotation marks is an example of a summary that would be neither acceptable nor adequate: “Prefield research resulted in no additional information to what was already known or provided in the records check.” The summary of prefield research results must include a discussion of the history of the area. Indicate which tribal group lived in the area, briefly characterize the nature of its settlement patterns and describe how the tribe may have used the project area. Also describe the historic settlement in the area and list the sites known in the area and the type of sites that are expected to be found in the project area and vicinity.

**Part 5: Training and Experience of Archaeological Surveyors:** Provide information concerning the training and qualifications of the person or persons who conducted the archaeological survey to demonstrate that the surveyors meet the qualification standards described in Section 929.4 of the Forest Practice Rules. List the name of the current archaeological surveyor. Provide that person’s affiliation, address, and phone number if this information is not already included in the title block or in Part 1 of the report. If the archaeological survey was conducted by a person with current CAL FIRE archaeological training, provide the most recently completed training course number and the date the training course was completed. The training must be current (within five years prior to the survey). If the current surveyor is a Professional Archaeologist check the appropriate box. If, according to the Information Center response, the project area or part of the project area had been previously surveyed, list the previous surveyor’s name and title of any applicable survey report on file.

**Part 6: Survey Methods and Procedures:** The information provided in this section should describe the effort made to search for cultural resources within the project area, and to demonstrate that an adequate and appropriate effort was made. In describing the survey strategy explain the archaeological survey methods that were used. Summarize the survey strategy by incorporating recommendations made by the Information Center and by using results of the prefield research. Survey strategy may be influenced by additional considerations such as topography and/or other physical attributes of the property. Provide information addressing where you looked, what methods were employed, and what you were looking for. For example, CAL FIRE recommends that you not state that you were searching for bedrock mortars in Humboldt County, since to date no bedrock mortars have been identified there and, therefore, it is believed that bedrock mortars do not occur there. On the other hand, if your survey was within the Sierra Nevada region it would be quite appropriate for you to indicate that you were searching all likely rock outcrops for bedrock milling features. In other words, demonstrate that you know what you should have been looking for and that
you employed a survey strategy that was appropriate for the area or region in which the property is located. CAL FIRE has produced a few articles designed to assist CAL FIRE personnel in developing appropriate strategies and these are available on the CAL FIRE Archaeology Program Web Site and in the Reference Manual and Study Guide for the CAL FIRE-CLFA Archaeological Training Program For Registered Professional Foresters And Other Resource Professionals.

Discuss the length of time spent conducting the archaeological survey. If you indicate that only one day was spent on the archaeological survey for a 500 acre project the CAL FIRE Archaeologist reviewing that project would likely question the adequacy of the survey effort. Also provide the date or dates of your survey. It is important that you survey during good weather and at a time when you have the best ground visibility.

Discuss the survey coverage intensity. If you applied systematic survey coverage, describe your transect intervals. For surveys on smaller parcels, it is perfectly acceptable to describe a survey coverage intensity that results from looking for archaeological sites while you were covering the area in the conduct of other tasks. Be sure, however, that you proceed slowly enough and cover the ground intensively enough to ensure that adequate survey coverage has been applied. Coverage with adequate intensity can be accomplished while doing other fieldwork, but be sure to accurately describe how well the ground was covered. For large project areas, it is better to apply different forms of systematic coverage. A lengthy discussion of systematic survey coverage is provided on pages 15-16 of this document. Discuss ground visibility and/or other limitations you encountered during the survey. If heavy duff or grass cover inhibited ground visibility and you used surface scrapes to improve your ability to see the soil, or if you observed exposed soils in road cut banks or creek banks, mention this. If portions of the project area were not included in the site survey area, be sure to explain why (i.e., the terrain was too steep, it was vegetated with abundant poison oak, etc.). Also include any other relevant information concerning your survey such as relevant details about the history of the area, any sites from a previous study, facts about previous land management practices, burn history, etc.

If recorded archaeological or historical sites were identified during the archaeological records check as occurring within or adjacent to your project area, then you should attempt to relocate each site during the survey. For recorded sites adjacent to the project area, you should relocate those sites and determine if they extend into your project area. Be sure you have obtained permission to enter any adjacent lands (trespassing is not recommended).

Once archaeological and/or historical sites are found you will need to determine their boundaries so they can be mapped, recorded, and protected. If flagging is to be used, we recommend the use of printed flagging that contains the words "Special Treatment Zone" and the placement of enough flagging so that the site boundaries are readily visible to equipment operators and other members of the project crew.

Part 7: Survey Results: List and briefly describe all archaeological or historical sites identified within the site survey area, including their size, type, and condition, regardless of their significance. Display the specific location of all identified archaeological or historical sites, and the areas covered, on an attached map or set of maps. At least one of these maps must be a 1:1 scale copy of a USGS 7.5’ quad map so the information can be accurately transferred to the official data base maps at the Information Center. The designations used for the sites on these maps must correspond to the designations for each of these sites in Parts 7, 8, and 9 of the report. This list and description must include previously recorded sites in addition to the new ones you
discovered. If the Records Check shows sites that you were not able to relocate, discuss this in your survey results. Here is an example of a good site list with brief, but adequate site descriptions:

- Site #1. This is a previously recorded site, assigned the trinomial of CA-MEN-1806/H, recorded by Mark Gary in 1992. It is a multi-component site with both prehistoric and historic components. The majority of the site area contains a rich midden deposit with three possible housepits and a cupule boulder—evidence suggesting that this was a major prehistoric village site. The site appears to be in excellent condition. Artifacts observed on the surface include a rich scatter of chert and obsidian flakes and three projectile points. The historic element is the ruins of a one-room log cabin built with wire nails in circa 1920. The site measures about 250 m. X 100 m. in area.

- Site #2. I discovered this site during the survey and named it the Bear Creek Site. It is a prehistoric lithic scatter of moderate density (about 5 flakes per square meter). Chert and obsidian flakes were found but no midden, features, or flaked tools. The site measures about 50 m. X 30 m. and appears to have been disturbed by previous logging operations.

- Site #3. Another site I discovered, named the Callie Homestead, is an historic homestead with a cabin, corral, fruit trees, and scattered historic artifacts including cans and bottle fragments. The site area measures about 200 ft. X 150 ft. The cabin and trees are in good condition but the corral is in ruins. Only about 10% of it has survived.

- Site #4. Another site I discovered, this one named the Bear Creek Can Scatter, is a can scatter measuring 15 X 15 feet. It contains mostly beer cans and food tins and, based on the types of cans, appears to date to circa 1950. As a scatter, there is no depth to this site, which is in poor condition since the cans are extremely rusty and markings are not legible.

- Site #5. This is the location of another recorded site, CA-MEN-1807, recorded by Jim Mismap in 1973 as a small sparse lithic scatter. I did not relocate the site during my survey. The recorded location provided by the Information Center is included on the attached Archaeological Coverage Map, but no site was observed at that location.

In the above example, all five site locations must be plotted on the attached maps, and these plotted locations should be designated Sites 1 through 5. Although site descriptions in the survey report may be kept brief, the same information can be copied and pasted/inserted into the site record, but the level of detail should then be expanded so that it is as detailed as possible.

Following the list and description of each identified site, check the appropriate boxes indicating how CAL FIRE’s recording requirements have been or will be met. CAL FIRE is responsible for recording sites located within project areas and these site records must be completed in accordance with currently acceptable professional standards. The following additional suggestions concerning site recording are offered:

- Site records should be included with the draft report forwarded to the CAL FIRE Archaeologist for review.

- If the site was previously recorded you may need to update the site record by re-recording it, particularly if the existing record does not meet current standards or if new information pertaining to the site was found.
When determining the appropriate level of recording needed for each site, the following general guidelines should be used; bearing in mind that some sites may need additional recordation above these suggested levels. Small, recent, or ubiquitous sites such as historic can dumps, minor ditch segments, etc. may qualify for recording with the minimum acceptable standard, which is a 2-page record including a completed Primary Record and Location Map. Small prehistoric sites (such as sparse lithic scatters) which are to be completely avoided may also be recorded with a Primary Record and Location Map, although CAL FIRE recommends the inclusion of a Site Map to ensure the site can be relocated in the future. Larger, more complex sites should be recorded using at least a 4-page record consisting of a Primary Record, Archaeological Site Record, Site Map, and Location Map. In general, all but the very simplest resources should be recorded with a Primary Record, Location Map, and an appropriate detailed recording form or forms (e.g., Archaeological Site Record, Linear Feature Record, Milling Station Record, Rock Art Record). At a minimum, any significant site should be recorded to the 4-page standard (Primary Record, Archaeological Site Record, Site Map, and Location Map). Sites containing diagnostic artifacts should include scale drawings of the artifacts and/or photographs. CAL FIRE staff should be familiar with two important references on site recording that are available on our web site. These are: *Suggestions for Preparing Archaeological Site Records and Site Maps* (Betts 2001) and *Instructions for Recording Historical Resources* (Office of Historic Preservation 1995).

**Part 8: Evaluation of Site Significance:** Most CAL FIRE project managers or their designees leave this section blank, even when sites are identified in the project area, and we encourage this practice. An evaluation of site significance is usually needed only if damaging effects to identified archaeological and historical sites cannot be avoided. If the report author chooses to provide an initial assessment of site significance, the analysis must utilize the significance criteria in the definition for a *significant archaeological or historical site* found in Section 895.1 of the Forest Practice Rules. The significance assessment must also utilize any information provided by Native Americans and provide a context statement pertaining to archaeological, historical and ethnographic data pertinent to the region. It should also consider the physical characteristics of the archaeological or historical site. If CAL FIRE proposes to protect the site from all *substantial adverse change* (defined in PRC Section 5020.1) and the site has been adequately recorded, then this section does not need to be completed. Instead, simply provide a statement that since the site will be protected and recorded, a preliminary significance assessment is not required.

Be aware that the CAL FIRE Archaeologist will require the report to contain extensive documentation in support of a statement that the site is not significant. Almost every prehistoric archaeological site has the potential to meet significance criterion (a) (information potential), and it may be more difficult and costly to demonstrate lack of significance, particularly if subsurface testing is needed. When CAL FIRE personnel encounter situations where damaging effects to sites cannot be avoided, a detailed discussion of site significance must be included in this section. Brief arguments dismissing site significance without adequate support are unlikely to result in archaeological clearance of the project by the CAL FIRE Archaeologist.

**Part 9: Protection Measures:** You will need to list the specific enforceable protection measures to be implemented for each identified site. The sites should be listed using the same site designations in Part 7, with specific protection measures included for each listed site. Describe measures designed to ensure protection within the site boundary and within 100 feet of the site boundary. Complete avoidance is the preferred treatment both within the site boundary and within a 100 foot
buffer zone, if this is practical. When the report author proposes to carefully implement activities in
and around identified cultural resources, an assessment of likely or possible impacts must be
presented. In such situations we advise you develop this language in close consultation with a CAL
FIRE Archaeologist and include an element of on-site supervision to ensure that protection measures
or restricted project activities are closely followed. If complete protection is not possible or is
impractical, the author will need to develop a detailed plan describing project activities and specific,enforceable protection measures. This plan will then be carefully reviewed by a CAL FIRE
Archaeologist and key elements of that protection plan included in the second written Notice to
Native Americans, if the site is a Native American resource. If limited project activities are proposed
within site boundaries, then the detailed plan must be written to avoid significant adverse impacts to
that site.

If CAL FIRE determines that the proposed project may cause a substantial adverse change (as
defined in PRC Section 5020.1) to a potentially significant archaeological or historical site and
these potential impacts can not be avoided, one or more of the following scenarios will most likely
ensue:
- The project may need to be changed to avoid the affected sites.
- CAL FIRE may need to retain a consulting archaeologist to investigate the significance of the
  site or complete data recovery as mitigation. This investigation could include subsurface testing
  and artifact analysis and detailed documentation.
- The project may have to be cancelled.
- The project may require an Environmental Impact Report (EIR) including public and agency
  review.
- The project may require consultation with the appropriate federal agency and the State Historic
  Preservation Officer (SHPO) if federal funding is involved.

Any investigation report shall, at a minimum, contain recommendations for the mitigation and/or
the reduction of impacts to avoid or prevent substantial adverse change to significant
archaeological or historical sites, and shall meet the standards of Preservation Planning Bulletin
Number 4 December 1989, Office of Historic Preservation), entitled Archaeological Resource
Management Reports (ARMR): Recommended Contents and Format. Detailed information on site
impacts and appropriate protection measures is available in the Reference Manual and Study Guide
for the CAL FIRE Archaeological Training Program For Registered Professional Foresters And
Other Resource Professionals.

Part 10: Implementation of Protection Measures: In this section, the author should describe
the efforts made to ensure that protection measures are effectively carried out. For example, the
protection measures should be included in the Incident Action Plan for VMP projects so crews
carrying out project activities are adequately informed. For CFIP projects, protection measures
may be inserted into the Forestland Management Plan, and specific directions given to work
crews. On-site supervision is another useful tool to ensure the protection measures are carefully
followed. Protection measures should be included in the Environmental Checklist for CFIP and
VMP projects. Upon request the CAL FIRE Archaeologist may provide assistance in developing
the appropriate language for the Cultural Resources Section in this Checklist. The CAL FIRE
Forester or RPF may need to revise the Project Description to incorporate the results of the
archaeological investigation, especially when specific, enforceable protection measures have
been developed to protect archaeological sites. Remember that archaeological site locations are
exempt from the Public Records Act; they must be kept confidential and must never be included in
any public document. The CAL FIRE Archaeologist should review any perceived conflict between
confidentiality policy and public disclosure requirements. A decision needs to be made regarding who must know where sites are located and how much information they need to know about them. Those individuals trusted with archaeological site location information must be advised of the importance of keeping this information confidential. The project manager should incorporate results of the archaeological investigation into the Management Plan for the property, if one is being prepared, and should notify all appropriate project personnel of specific archaeological protection measures that were agreed-to, and ensure that these measures are carried-out. The project manager should monitor and evaluate the effectiveness of any plan used to protect archaeological or historical resources upon completion of the project by inspecting sensitive areas to determine if desired objectives have been met. These efforts should be discussed in Part 10 of the report.

**Part 11: Other Applicable Information:** This section is intended to be used if the author wishes to provide any other applicable information that did not fit well in the previous sections of the report. In past years we have seen authors use this section to discuss land ownership history, history of land management practices, future development and/or resources found outside the site survey area.

**Part 12: Attachments:** The following attachments should be included with your survey report:

- A copy of the completed records check request and its accompanying map, and the written response from the appropriate Information Center including all information and/or site records provided by the IC.
- An example of CAL FIRE’s correspondence with the local Native American tribal groups and individuals including maps, and any response that has been received.
- Site records including maps. Include original photos rather than photocopies of photos.
- Archaeological Coverage Map or Maps, one of which must be a USGS 7.5-min. quad map (or digitally generated topographic equivalent) at 1:24,000 scale. The map must show a north arrow, scale, project boundary, location of all archaeological and historic sites identified (with site size and configuration mapped accurately), regardless of significance, and specific areas examined during the archaeological survey. Make sure the designations used to list sites in Parts 7, 8, and 9 are the same designators used to differentiate mapped site locations on the Archaeological Coverage Map. Additional maps at other scales to provide increased clarity are encouraged, and in small projects may be necessary, but the 1:24,000 scale map is always required. The reason for this is to enable accurate transfer of site locations and survey coverage areas onto the official base maps kept at the Information Centers which are original 7.5 minute topographic quadrangle sheets.

**Part 13: Professional Review and Approval:** A CAL FIRE Archaeologist will review the report and provide a signature once the investigation and report have been satisfactorily completed. The author may complete the printed name, title, and location, but leave the signature and date lines blank; these will be completed by the CAL FIRE Archaeologist. You are encouraged to consult with the CAL FIRE Archaeologist several times during the investigation and development of the report. You may wish to forward a draft copy of the report via email for the CAL FIRE Archaeologist to review, edit, and finalize. You could send draft maps and site records via FAX for review. Once the CAL FIRE Archaeologist determines the investigation and report have been satisfactorily completed, assemble an original report, including all changes recommended during review and with all attachments, and send it to the appropriate CAL FIRE Archaeologist for signature and distribution.
CAL FIRE Archaeological Survey Report Form:

An Archaeological Survey Report for the
(name of project)
(name of county), California

by:

(author’s name)
(author’s affiliation/title)
(author’s mailing address)
(author’s telephone number)

(date report was written)

Part 1: Project Information

Project Number:
Name of CAL FIRE Project Manager:
Project Size (acres):
Name of 7.5’ USGS Quad Map:
Name of Landowner:
Legal Location:
Funding Information:
Project Description:

Part 2: Archaeological Records Check Information

Date of Records Check Conducted by Information Center:
Information Center File Number:
Summary of Records Check Results:

( ) Records Check Request, Map, and written reply from the Information Center are attached
( ) Records Check Not Attached
Justification:

Part 3: Native American Consultation Information

( ) Example of a notification letter(s) (including maps) is attached
List of Native American individuals or groups that were provided written notification:
Date of the CAL FIRE Native American Contact List that was used:
Date notification was sent:
Results of Information Request:
( ) No reply received as of (date):
( ) Written reply received (copy attached)  
( ) Verbal reply received (summarize verbal reply):  
( ) Native American archaeological or cultural sites were not identified within the project area  
( ) Native American archaeological or cultural sites have been identified within the project area  
Date Notification Letters were sent to Native Americans (if applicable):  
Date copies of notification letters sent to the Director:  
Results of Notification to Native Americans:  
( ) No reply received as of (date):  
( ) Written reply received (copy attached)  
( ) Verbal reply received (summarize verbal reply):  

Part 4: Pre-Field Research

Literature Reviewed:  
Persons Contacted:  
Summary of Results of Pre-Field Research:

Part 5: Training and Experience of Archaeological Surveyors

Name of current Archaeological Surveyor(s):  
( ) Archaeological Survey conducted by Professional Archaeologist  
( ) Archaeological Survey conducted by person with current CAL FIRE Archaeological Training  
   CAL FIRE Archaeological Training Course #  
   Date Training Course was completed:  
( ) Archaeological Survey for previous project within site survey area previously conducted by (provide name):

Part 6: Survey Methods and Procedures

Survey strategy:  
Time spent conducting archaeological field survey:  
Date or Dates the survey was conducted:  
Survey coverage intensity:  
Ground visibility/other limitations:  
Other relevant information:

Part 7: Survey Results

List and description of all sites found:

( ) No sites found within the site survey area.  
( ) The following sites have been recorded and completed records are attached:  
( ) The following sites were previously recorded, updates not prepared (attach copy(ies)):  


The following sites were previously recorded, updates prepared (attach copy(ies)):
The following sites will not be recorded, justification provided below:

**Part 8: Evaluation of Significance**

Preliminary determination of significance of listed sites (if required):

**Part 9: Protection Measures**

Specific enforceable protection measures:

**Part 10: Implementation of Protection Measures**

Discuss actions taken to carry out protection measures:

**Part 11: Other Applicable Information**

Additional Information:

**Part 12: List of Attachments**

- ( ) Archaeological Records Check Request
- ( ) Archaeological Coverage Map (1:1 scale of USGS 7.5' quad)
- ( ) Archaeological Records Check Request Map
- ( ) Additional Archaeological coverage map(s)
- ( ) Information Center Reply
- ( ) Project Vicinity Map
- ( ) Example of Notice(s) to Native Americans:
- ( ) Written Reply from Native Americans
- ( ) USFS or other Agency Correspondence:
- ( ) Site Records
- ( ) Other:
- ( ) Photographs

**Part 13: Professional Review and Approval**
Signature of CAL FIRE Archaeologist

Date Signed:

Printed name:

Title:

Location:
Memorandum

To: Region Chiefs and Deputy Directors

Date: May 20, 2015

Telephone: (916) 653-4995

Website: www.fire.ca.gov

From: Helge Eng, Assistant Deputy Director, Resource Protection

California Department of Forestry and Fire Protection (CAL FIRE)

Subject: Assembly Bill 52 Archaeology Procedures and Environmental Document Considerations

This memorandum provides information regarding the implementation of the requirements of Assembly Bill 52 and is intended for Region Chiefs, Deputy Directors, Assistant Region Chiefs, Unit Chiefs, Regional Environmental Coordinators, Unit Environmental Coordinators, Unit Foresters, State Archaeologists, and Program Environmental Coordinators.

Archaeological Procedures

Assembly Bill 52 amended the California Environmental Quality Act to require specific consultation with California Native American tribes\(^1\) that are traditionally and culturally affiliated with the geographic area of a proposed project. The consultation is required when the lead agency prepares a negative declaration, mitigated negative declaration or environmental impact report. This does not apply to timber harvesting plans or other documents subject to the functional equivalent Forest Practice Program. However, it may apply to environmental documents associated with timberland conversions. Assembly Bill 52 takes effect July 1, 2015. The following describes the process that CAL FIRE project managers shall use to address these new requirements.

CAL FIRE’s archaeological procedures require the project manager to initiate (in consultation with a state archaeologist) a preliminary cultural survey to determine if the project’s activities could affect cultural resources. If there could be an effect on cultural resources, and, if the project will require the preparation of a negative declaration, mitigated negative declaration or environmental impact report, the CAL FIRE project manager should take the following steps to ensure compliance with Assembly Bill 52. The following is based on the information presented under the section entitled, “Procedures for

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\(^1\) Public Resources Code §21073: “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.
Archaeological Reviews of CAL FIRE Projects,” contained in Archaeological Review Procedures for CAL FIRE Projects (Foster and Pollack 2010). Where a step has been modified, a description of the new procedure is provided; otherwise, “no change” is indicated.

**Cultural Resource Survey Procedures:** Archaeological surveys for CAL FIRE projects must include the following tasks (these match the attached flow chart):

**Records Check:** No change

**California Native American Tribe Project Notification and Information Gathering:** The CAL FIRE project manager shall send written notification of the proposed project to the appropriate California Native American tribes listed on the most current version of the Native American Heritage Commission’s Assembly Bill 52 list. The purpose of this notification is to inform California Native American tribes about the proposed project, to invite their views and comments, to gather information about the location of any tribal cultural resources that may be known within the project area, and to notify the tribes that they may request consultation about the project’s effects, alternatives and mitigations. This step should be completed early in the process of developing a project (such as the same time as the archaeological records check) in order to avoid delays, allow time for California Native American tribes to respond and to schedule any necessary consultation meetings. CAL FIRE shall follow up and investigate any potential positive result revealed through this request for information. The notification letter must include the following items:

- A statement that the California Native American tribe may request consultation with CAL FIRE concerning environmental review, cultural resources on the project area, potential impacts, project alternatives and mitigations.
- A statement that the tribe’s request for consultation must be made in writing within 30 days of the CAL FIRE notice.

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1 Until such a list becomes available, the CAL FIRE project manager should contact the local CAL FIRE archaeologist to determine which tribes to contact.
2 Public Resources Code §21074:
   (a) “Tribal cultural resources” are either of the following:
      (1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:
         (A) Included or determined to be eligible for inclusion in the California Register of Historical Resources.
         (B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.
      (2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.
   (b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.
   (c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a “nonunique archaeological resource” as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).
3 According to Assembly Bill 52, this notification must occur within 14 days of a decision to undertake a project and prior to the release of the associated environmental document.
• A statement that the California Native American tribe should designate a lead contact person if requesting consultation.

• A statement that the consultation does not limit the ability of the tribe to submit information to CAL FIRE regarding the significance of the tribal cultural resources, the significance of the project’s impact on tribal cultural resources, or any appropriate measures to mitigate the potential impacts.

• A description of the project location including the county, section, township, range, baseline and meridian, and the approximate direction and distance from the nearest community or well-known landmark.

• Two maps-- a general location map, such as a Thomas Brothers Map, that shows the travel route from the nearest community or well-known landmark to the project area and a copy of the relevant portion of the USGS topographic quadrangle map clearly depicting the location of the project boundaries, as well as a map legend and scale.

• A statement that all replies, comments, questions or other information should be directed to CAL FIRE in writing.

• A statement that questions and comments can be made by phone, but should be followed by an email or letter.

• The name, address, and telephone number of the CAL FIRE project manager.

• A statement that locations of sites disclosed will be kept confidential.

• A statement that maps displaying locations of cultural sites should include a note or stamp indicating the map is confidential.

A sample letter is attached to this memorandum (1st CNAT Letter AB 52).

Prefield Research: No change.

Consultation with a CAL FIRE Archaeologist: No change.

Survey: No change.

Develop Protection Measures: No change.

Consultation with California Native American Tribes: If a California Native American tribe responds to CAL FIRE requesting consultation5 and/or if CAL FIRE identifies tribal cultural resources on a project area, CAL FIRE will notify the California Native American tribe regarding such consultation and/or the existence of such sites. Any notification meant to initiate consultation must occur within 30 days of receiving the California Native American tribe’s request for consultation.

5 Per Public Resources Code §21080.3.1(b), “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 [GC §65352.4].
If the notification concerns only the consultation request, then the notification letter must contain the following:

- An acknowledgment of receipt of the consultation request.
- A brief description of the project.
- A statement that the consultation may be done by email, by letter, by phone or in person with the CAL FIRE project manager, the CAL FIRE cultural resource manager, and/or the appropriate unit, program or regional manager.
- A statement that the consultation may cover potential significant adverse effects to tribal cultural resources within the geographic area traditionally and culturally affiliated with the tribe, including the type of environmental document necessary, the significance of tribal cultural resources, and, if necessary, project alternatives or the appropriate measures for preservation or mitigation that the tribe may recommend.
- A statement that the consultation does not limit the ability of the tribe to submit information to CAL FIRE regarding the significance of the tribal cultural resources, the significance of the project’s impact on tribal cultural resources, or any appropriate measures to mitigate the potential impacts.
- A statement that all replies, comments, questions or other information should be directed to CAL FIRE.
- The CAL FIRE project manager’s contact information.
- A statement that locations of sites disclosed will be kept confidential.

A sample letter is attached to this memorandum (2
\textsuperscript{nd} CNAT Letter & No Site Notification AB 52).

If the notification concerns both the consultation request and identified tribal cultural resources, then the notification letter must contain all of the above, as well as the following:

- A description of the tribal cultural resources identified in the project area.
- A description of the proposed protection measures.

A sample letter is attached to this memorandum (2
\textsuperscript{nd} CNAT Letter & Site Notification AB 52).

The consultation is considered concluded when CAL FIRE and the California Native American tribe agrees to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource, or one of the parties, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached [Public Resources Code §21080.3.2(b)].

If CAL FIRE identifies cultural resources on a project area and no one has requested consultation, CAL FIRE will notify the appropriate entity (California Native American tribe or Native Americans) regarding the existence of cultural resources. This should be done per the instructions contained under Consultation with Native Americans in “Procedures

**Record Sites:** No change.

**Complete Archaeological Survey Report:** No change.

**CAL FIRE Archaeologist Provides Approval Signature Following Satisfactory Completion of Investigation and Report:** No change.

**Archaeological Clearance:** No change.

**Environmental Document Considerations**

Please consider the following when preparing or reviewing the environmental document for the project:

- Mitigation measures agreed upon in the consultation must be included in the environmental document and the mitigation monitoring and reporting program [Public Resources Code §21082.3(a)].
- Such mitigations must be fully enforceable [Public Resources Code §21082.3(b)].
- The environmental document should discuss significant effects to identified tribal cultural resources, and whether alternatives or mitigation measures avoid or substantially lessen the impact on the identified tribal cultural resource [Public Resources Code §21082.3(b)].
- Information related to the location, description and use of tribal cultural resources submitted by California Native American tribes as a result of consultation is confidential [Public Resources Code §21082.3(c)].
- CAL FIRE can adopt a negative declaration or certify an environmental impact report once the consultation is completed, the California Native American tribe has failed to engage in the consultation process, or the California Native American tribe has failed to request consultation in a timely manner [Public Resources Code §21082.3(d)].
- If there are outstanding significant effects to tribal cultural resources at the conclusion of the consultation, or if no consultation occurs, CAL FIRE will need to incorporate mitigation that lessens those effects [Public Resources Code §21082.3(e)].
- Environmental document preparers should refer to the applicable sections of the California Environmental Quality Act when preparing negative declarations, mitigated negative declarations and environmental impact reports, which are subject to consultations with California Native American tribes. Those sections are: Public Resources Code §§21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21084.2, and 21084.3.
- Environmental document preparers should include specific information about cultural resources in a confidential appendix and not in the main body of the environmental document. Information about cultural sites should be described using general terms so as to inform the public of the basis of CAL FIRE’s decision without breaching confidentiality.
- Environmental documents prepared by contractors will need to be reviewed for conformance with the requirements of Assembly Bill 52. This may require coordination between the applicant, contractor and CAL FIRE staff to ensure the contractor is aware of any of CAL FIRE’s consultation requirements in the project area.

If you have any questions regarding this matter, please contact your local State Archaeologist or Chris Browder at (916) 653-4995 or chris.browder@fire.ca.gov.
Cultural Resource Review Procedures

Project Proposed

Preliminary Study to determine if impacts to cultural resources are possible

- No impacts expected
  - Cultural resource survey not required
    - Complete letter to the project file documenting why survey was not required
- Impacts possible
  - Cultural resource survey required
    - Records check
      - Notify Native Americans on CAL FIRE NA list about project
        - Conduct pre-field research
          - Consult with CAL FIRE Archaeologist
            - Survey
              - Develop protection measures
                - Consult with Native Americans, if applicable
                  - Record sites
                    - Complete Archaeological Survey Report
                      - CAL FIRE Archaeologist provides approval signature once investigation and report have been satisfactorily completed
- Impacts possible and ND, MND or EIR required
  - Cultural resource survey required
    - Records check
      - Notify Native American Tribes on NAHC list about project and possible consultation*
        - Conduct pre-field research
          - Consult with CAL FIRE Archaeologist
            - Survey
              - Develop protection measures
                - Consult with Native Americans, if requested**
                  - Record sites
                    - Complete Archaeological Survey Report
                      - CAL FIRE Archaeologist provides approval signature once investigation and report have been satisfactorily completed

* Notification must occur within 14 days of a decision to undertake a project and prior to the release of a negative declaration, mitigated negative declaration, or environmental impact report (PRC § 21080.3.1(d)).

**Consultation must begin within 30 days of receiving a tribe’s written request (PRC § 21080.3.1(e)).
1st CNAT Letter AB 52

**Note:** The language presented below in **bold** text within this sample letter must be addressed by the CAL FIRE Project Manager by including project-specific information prior to sending the written notification to the applicable California Native American Tribe on the NAHC list.

**CAL FIRE Project Manager’s Name**  
**Mail Address, Phone Number, and Email address**

**Cultural Resources Representative**  
**Name of California Native American Tribe**  
**Mailing Address provided on the most current NAHC California Native American Tribe Contact List**

**Date**

**RE: Project Name and Number**

Dear Cultural Resources Representative:

CAL FIRE hereby notifies you that it is proposing to conduct a project located in the geographic area traditionally and culturally affiliated with the **provide California Native American Tribe** (see description below and attached map). Under California state law, the project is subject to the California Environmental Quality Act, and CAL FIRE may have to prepare an environmental document consisting of 1) a negative declaration, 2) a mitigated negative declaration, or 3) an environmental impact report. State law under Assembly Bill 52 (Public Resources Code Section 21080.3.1) now allows California Native American tribes 30 days to request consultation regarding possible significant effects that implementation of the proposed project may have on tribal cultural resources. The request must be in writing to CAL FIRE and must identify a lead contact person. CAL FIRE will begin the consultation process within 30 days of receiving the tribe’s request for consultation. The consultation may include a discussion concerning the type of environmental review necessary for the project, the significance of tribal cultural resources discovered, the significance of the project’s impacts on tribal cultural resources, and, if necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend.

The consultation does not limit the ability of the tribe to submit information to CAL FIRE regarding the significance of the tribal cultural resources, the significance of the project’s impact on tribal cultural resources, or any appropriate measures to mitigate the potential impacts. If you wish to informally submit information, written comments may be sent to CAL FIRE at **address, phone number of the appropriate CAL FIRE office**. General comments may also be submitted to CAL FIRE via e-mail at **CAL FIRE e-mail address** though transmittal of confidential information, such as the specific location of a cultural resource, is not recommended. In such instances you should notify CAL FIRE via formal letter, in person, or over the phone as the confidentiality of information transmitted via email cannot be ensured.
Project Information:
County:
Legal Location:
Distance and Direction to Nearest Community or Landmark:
Project Description:
Please feel free to contact me if you have any questions concerning this proposed project or what is being requested in this letter.

Sincerely,
Your Name

Cc: Project File, archeologist
Enclosure: Project Location Map
Note: The language presented below in bold text within this sample letter must be addressed by the CAL FIRE Project Manager by including project-specific information prior to sending the written notification to the applicable California Native American Tribes on the NAHC list.

CAL FIRE   Unit Chief or equivalent Name
Mail Address, Phone Number, and Email address

Cultural Resources Representative
Name of California Native American Tribe
Mailing Address provided on the most current NAHC California Native American Tribe Contact List

Date

RE: Project Name and Number

Dear Cultural Resources Representative:

I have received your request to consult on the proposed CAL FIRE project in _______ County in the area shown on the enclosed maps. As mentioned in my initial letter dated date of information and consultation request letter, this project will include provide a brief project description. The consultation may be done by email, by letter, by phone or in person with me, the CAL FIRE Project Manager and/or cultural representative. It may cover potential significant adverse effects to tribal cultural resources within the geographic area traditionally and culturally affiliated with the tribe. This may include discussion concerning the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project’s impacts on the tribal cultural resources, and, if necessary, project alternatives or the appropriate measures for preservation or mitigation that the tribe may recommend. Please contact me at your earliest convenience in order to arrange a date, time and location for the consultation. I may be reached at address, phone number and email.

The consultation does not limit the ability of the tribe to informally submit information to CAL FIRE regarding the significance of tribal cultural resources, the significance of the project’s impact on tribal cultural resources, or any appropriate measures to mitigate the potential impacts. If you wish to informally submit information, written comments may be sent to CAL FIRE at address, phone number of the appropriate CAL FIRE office. General comments may also be submitted to CAL FIRE via e-mail at CAL FIRE e-mail address though transmittal of confidential information, such as the specific location of a cultural resource, is not recommended. In such instances you should notify CAL FIRE via formal letter, in person, or over the phone as the confidentiality of information transmitted via email cannot be ensured.

Please feel free to contact me if you have any questions concerning this proposed project or what is being requested in this letter.

Sincerely,
Your Name

Enclosure: Project Location Map
cc: CAL FIRE Project File, project manager, archeologist.
2nd CNAT Letter & Site Notification AB 52

Note: The language presented below in bold text within this sample letter must be addressed by the CAL FIRE Project Manager by including project-specific information prior to sending the written notification to the applicable California Native American Tribe on the NAHC list.

CAL FIRE Unit Chief or equivalent Name
Mail Address, Phone Number, and Email address

Cultural Resources Representative
Name of California Native American Tribe
Mailing Address provided on the most current NAHC California Native American Tribe Contact List

Date

RE: Project Name and Number

Dear Cultural Resources Representative:

I have received your letter requesting consultation per the requirements of Assembly Bill 52 on the proposed CAL FIRE project in _______ County in the area shown on the enclosed maps. As mentioned in my initial letter dated date of information and consultation request letter, this project will include provide a brief project description. The consultation may be done by email, by letter, by phone or in person with me, the CAL FIRE Project Manager and/or cultural representative. It may cover potential significant adverse effects to tribal cultural resources within the geographic area traditionally and culturally affiliated with the tribe. This may include discussion concerning the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project’s impacts on tribal cultural resources, and, if necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend. Please contact me at your earliest convenience in order to arrange a date, time and location for the consultation. I may be reached at address, phone number and email.

The consultation does not limit the ability of the tribe to informally submit information to CAL FIRE regarding the significance of tribal cultural resources, the significance of the project’s impact on tribal cultural resources, or any appropriate measures to mitigate the potential impacts. If you wish to informally submit information, written comments may be sent to CAL FIRE at address, phone number of the appropriate CAL FIRE office. General comments may also be submitted to CAL FIRE via e-mail at CAL FIRE e-mail address though transmittal of confidential information, such as the specific location of a cultural resource, is not recommended. In such instances you should notify CAL FIRE via formal letter, in person, or over the phone as the confidentiality of information transmitted via email cannot be ensured.

In addition, please note that Native American archaeological or tribal cultural resources have been identified within the proposed CAL FIRE project area. A description of the
resources and how such resources will be protected or avoided during project operations are as follows:

(Note: This can be copied from Part 7 and Part 9 of your archaeological survey report)

**Name, number, or other designator of the site.** This site is brief description of site. The protection measures afforded this site are brief discussion of how site shall be protected or avoided.

Please feel free to contact me if you have any questions concerning this proposed project or what is being requested in this letter.

Sincerely,

*Your Name*

Enclosure: Project Location Map

cc: CAL FIRE Project File, project manager, archeologist.
Tribal Relations Training for Natural Resource Management and Wildland Fire Protection Professionals

Statement of Work

A. Background and Rationale: What is the situation, condition, or problem to be addressed by the project?

The National Indian Justice Center, Inc. (NIJC) is an Indian owned and operated non-profit corporation with principal offices in Santa Rosa, California. The National Indian Justice Center was established in 1983 in order to establish an independent national resource for Native communities and tribal governments.

The goals of NIJC are to design and deliver legal education, research, and technical assistance programs which seek to improve the quality of life for Native communities and the administration of justice in Indian country.

Tribes and tribal members have responsibilities for, manage, or own significant areas of forestland in California. Given this situation, they have need for information, education, technical assistance, and financial assistance for the sustainable management of these lands, including fire protection and fire prevention. Many professionals in the resource management and fire protection communities, such as registered professional foresters and fire service staff, have limited knowledge of tribes, tribal land management, and tribal fire protection issues, and thus are not well prepared to deliver these services.

B. Project Objective: What are the objectives of the proposed project?

Core Objective Through training sessions, provide resource management and fire protection professionals with the legal, political and social framework to advance effective working relationships with and delivery of services to California Indian Tribes and tribal communities.

C. Project Timeline

Work on the grant will begin at the time of grant execution and will be completed within 12 months. Initial work to be completed is the development of the training materials and scheduling the appropriate trainers.

The goal is to deliver the six training sessions in October or November 2012.

D. Scope of Work: Describe the approach to be used, the design, and implementation of the project. Include who will be involved in specific tasks.
The National Indian Justice Center will prepare and deliver six training sessions as described below:

- Two Executive Training Sessions targeted at higher, managerial staff, with one session to be held in Northern California and one in Southern California, at locations mutually acceptable to NIJC and CAL FIRE. Sessions will be held in the late fall (October or November 2012, or other dates mutually agreeable to CAL FIRE and NIJC).
- Four Regional Workshops for resource management and fire service professionals, with two sessions to be held in different Northern California locations and two sessions to be held in different Southern California locations, at locations mutually acceptable to NIJC and CAL FIRE. Sessions will be held in the late fall (October or November 2012, or other dates mutually agreeable to CAL FIRE and NIJC).

The Executive Training Sessions will last approximately two hours and provide CALFIRE leadership with top-level training focusing on:

- Background on historic tribal and state relationships;
- Understanding the legal and socio-political frameworks for working with California Tribal governments;
- Addressing strategic political issues and opportunities with California Tribes;
- Developing productive working relationships with California tribal leaders; and
- Consulting and coordinating with tribal governments for more efficient and effective decision-making and program delivery.

The Regional Workshops will last approximately six hours and provide key managers and field staff with information on:

- Background on historic tribal and state relationships;
- Working with the basics of legal compliance with relevant laws and policies;
- Understanding the legal and socio-political framework for working with California Tribal governments;
- Current and emerging laws and policies on consultation and coordination with tribal governments and individuals regarding cultural and natural resource management and fire protection, including a case study;
- Developing sound relationships with tribal governments and communities; and
• Addressing current issues, challenges, and opportunities, with a focus on finding practical solutions.

NIJC will provide the content and presenters for the six sessions, with the exception of any presentations that may be made by CAL FIRE staff.

**Meeting Logistics**  NIJC will provide final agendas, handouts, and appropriate resource materials (e.g., Executive Briefing Book) for participants. NIJC also will provide recommendations and sources for post session training (e.g., on-line). CAL FIRE will assist with arranging meeting rooms at available State facilities and providing a computer and projector for audio/visual presentations.

**Collaboration**  NIJC will work closely with CAL FIRE in the development and delivery of the training sessions. Upon request, CAL FIRE staff, subject to availability, will participate in delivering relevant portions of the training sessions. Assistance will be sought from the Northern California Society of American Foresters, Southern California Society of American Foresters, California Licensed Foresters Association, CAL FIRE, and the Professional Foresters Registration to publicize the trainings to forestry professionals. Upon request from NIJC, CAL FIRE will assist by publicizing the trainings to fire protection professionals.

E. Budget

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