

# CalEPA Tribal Consultation Protocol Overview

## Purpose

To establish a step-by-step process that will assist the California Environmental Protection Agency (CalEPA) and each of its boards, departments, and offices, in engaging with California Native American Tribes (Tribes) broadly and in government-to-government consultations.

## Background

This Protocol and CalEPA's policies reflect the evolving nature of the state's relationship with California Native American Tribes (Executive Order B-10-11, AB 52 (Statutes of 2014), Executive Order N-15-19) and the paramount importance of honoring the history and knowledge of the state's first people.

## Roles and Responsibilities

The Protocol outlines roles and responsibilities that apply to CalEPA and its board, department and office staff when engaging in a tribal consultation. The Protocol does not establish or describe designated representatives for Tribes engaged in consultation. This Protocol describes the role of Consultation Officials, Authorized Designees, the CalEPA Deputy or Assistant Secretary for Tribal Affairs, Tribal Liaisons, Staff Managers or Leads, the Governor's Tribal Advisor, and other Point(s) of Contact for consultation.

## Phases of Consultation:

This Protocol establishes four core phases of consultation that define CalEPA's consultation process:

Phase of Consultation	Brief Description of Each Phase in Consultation
<b>Identification</b>	<p>CalEPA or its board, department or office staff identifies interested Tribes and evaluates whether the matter, proposed action, or set of activities, has the potential to affect Tribes. During this phase, tribal officials or representatives may also request consultation.</p> <p><b>Identifying interested Tribes includes the following steps:</b> (1) Early identification through county list searches; and (2) contacting and consulting with Native American Heritage Commission.</p> <p><b>Identifying Matters Appropriate for Consultation includes:</b> (1) Determining whether a matter affects a Tribe; and (2) reviewing and honoring requests initiated by tribal governments.</p>
<b>Notification</b>	<p>CalEPA or its board, department or office staff must notify Tribes of matters or proposed actions or activities that may affect them or their natural or cultural resources, and that may be appropriate for consultation. Typically, this notification will start with a notification letter to the affected tribe(s) and should be followed by a phone call and electronic correspondence.</p> <p><b>Initiating Consultation involves:</b> (1) Sending an initial consultation letter; (2) following up; and (3) receiving from the notified tribe(s) a response accepting or declining the invitation to consult.</p>
<b>Input</b>	<p>Tribes provide input to CalEPA or the appropriate board, department, or office staff, on the matter for which consultation is occurring. This may consist of a range of interactions including written communications, phone calls, and meetings, including in-person leadership meetings.</p> <p><b>Receiving and responding to input generally consists of two Phases:</b></p> <p><b>(1) Planning Consultation</b>, which includes establishing goals and expectations, reviewing consultation polices, identifying the appropriate scope, number and location of meetings and planning an in-person leadership meeting as well as an agreed upon process for exchanging information, consultation facilitation, handling of sensitive information, consulting with multiple tribes, and planning for translation or recording.</p> <p><b>(2) Conducting the Consultation</b> includes holding a leadership and follow up meetings and exchanging information.</p>
<b>Follow Up</b>	<p>Once a consultation process concludes, the follow up phase includes CalEPA or its board, department, or office staff, providing feedback to the Tribe(s) involved in the consultation and explaining how they considered their input in the final action or decision in a letter signed by the appropriate Consultation Official. Staff should also provide a summary to the CalEPA Deputy or Assistant Secretary for Tribal Affairs, which documents the consultation process, and explains any points of contention raised, as well as how Tribe(s)' concerns were addressed in the final decision.</p>

# Consultation Process Basics

