



Respecting Tribal Sovereignty & Strengthening AB 52 Consultation

BACKGROUND: **Prop 45** modernizes California Environmental Quality Act (CEQA) to deliver the essential projects Californians rely on, while protecting—and strengthening—government-to-government consultation under AB 52.

New Early Identification of Tribal Cultural Resources (TCRs)

To promote avoidance and meaningful engagement before key project design decisions, **Prop 45** establishes a new early identification step **prior to CEQA review** that complements—and does not replace—AB 52:

- **Records Search:** Review of the Sacred Lands File (SLF), California Historical Resources Information System (CHRIS), and local tribal registers to identify known TCRs, with results shared with culturally affiliated tribes.
- **Optional Early Meet-and-Confer (Upon Tribal Request):** If requested, the tribe, lead agency, and applicant must meet early to discuss known TCRs, avoidance, preservation in place, and protection measures. Outcomes are documented and carried forward into AB 52 consultation.
- **Applies to Exempt Projects:** Today, CEQA-exempt projects typically require no tribal engagement. **Prop 45** closes this gap by ensuring tribes are notified of known TCRs early—creating new opportunities for avoidance and protection where none currently exist.
- **Tribal participation does not limit, replace, delay, or waive AB 52 consultation.**

AB 52 – Fully Protected and Strengthened

Once early TCR identification is complete, formal AB 52 consultation proceeds fully intact, with key enhancements:

- **Excluded from Streamlining:** Tribal consultation is expressly excluded from all streamlining timelines and cannot be shortened or constrained.
- **Avoidance First:** Codifies a clear hierarchy: avoidance first, culturally appropriate mitigation second. If avoidance is not feasible, must provide documented justification if tribal methods are declined.
- **Tribal Traditional Knowledge (TTK):** Requires incorporation of TTK into identification, analysis, treatment, and protection of TCRs. Agencies must provide documented justification if tribal methods are declined.
- **Early and Ongoing Input on Mitigation & Technical Studies:** Consulting Tribes must be given the opportunity to review and provide input on preliminary TCR analyses, mitigation concepts, and technical studies—ensuring proactive, ongoing engagement rather than reaction to a final environmental document.
- **Enforceable Outcomes:** Agreed-upon avoidance or mitigation measures become binding conditions of project approval.
- **Confidentiality Protections:** Expands protections for sensitive information and TTK through redactions, restricted mapping, limited disclosure, and secure data storage, in consultation with tribes.
- **Expanded Definition of TCRs:** Explicitly includes Indian burials and cemeteries, alongside places of worship and other sacred, cultural, or spiritual sites, providing clear, consistent protections for burial grounds.
- **Inadvertent Discovery Protections:** Requires tribal-informed procedures to ensure immediate notification, consultation, and culturally appropriate handling if TCRs are discovered during construction.

Respecting Tribal Sovereignty

Under **Prop 45**, early identification and AB 52 consultation apply only to federally recognized tribes, protecting sovereignty and preserving government-to-government relationships.

BOTTOM LINE: **Prop 45** modernizes CEQA without sacrificing tribal rights, establishing a stronger statewide standard for tribal consultation and protection of TCRs.

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