



ASSEMBLY BILL 52

A CEQA GUIDELINES UPDATE
FOR TRIBAL CULTURAL RESOURCES

KEY FEATURES

- Effective July 1, 2015 CEQA amended mandating early tribal consultation *prior to and during* CEQA review, for tribes who request it.

KEY FEATURES

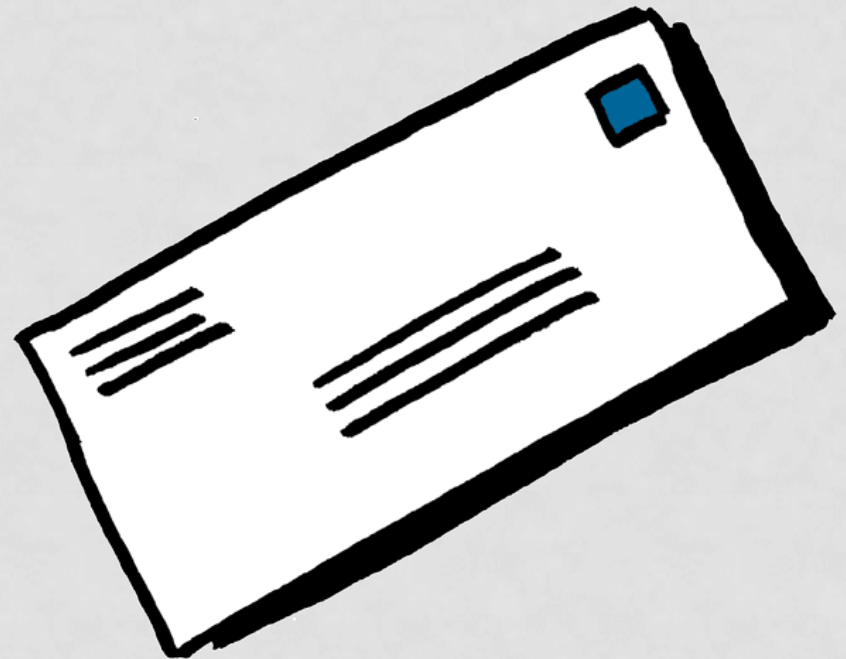
- Establishes a new category of tribal cultural resources (TCR's) under CEQA
 - Tribes are experts under AB 52
 - Potential resources may not always be visible
- Significant impact on TCR = Significant Impact on the environment.

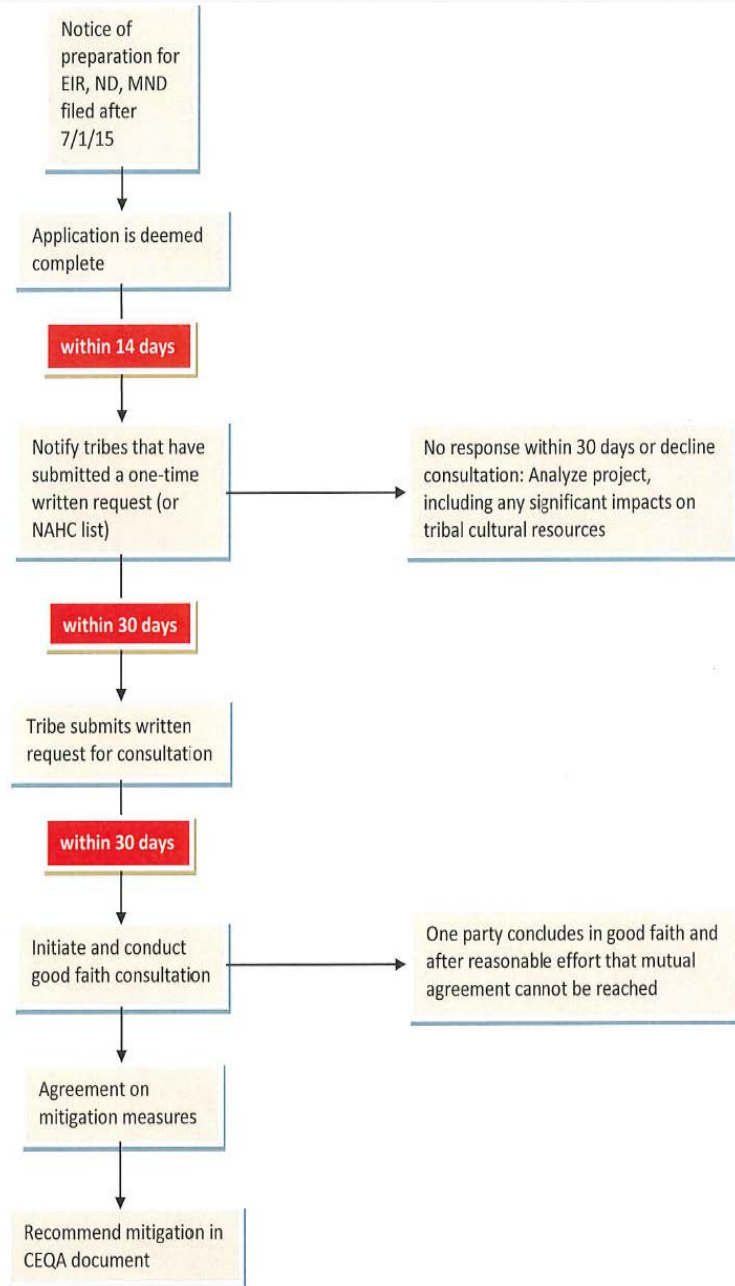
KEY FEATURES

- **Affects CEQA Schedule:**
 - Cannot release environmental document until consultation, if requested, has been initiated
 - Cannot certify environmental document until consultation, if initiated has concluded
 - Conclusion must be either by mutual agreement or without agreement (after a reasonable and good faith effort).

COUNTY'S ROLE

- Tribal notification in writing within 14 Days...
 - Upon determining a project is complete (Current Planning) OR
 - Undertaking a project at the commencement of the CEQA process (in-house projects)

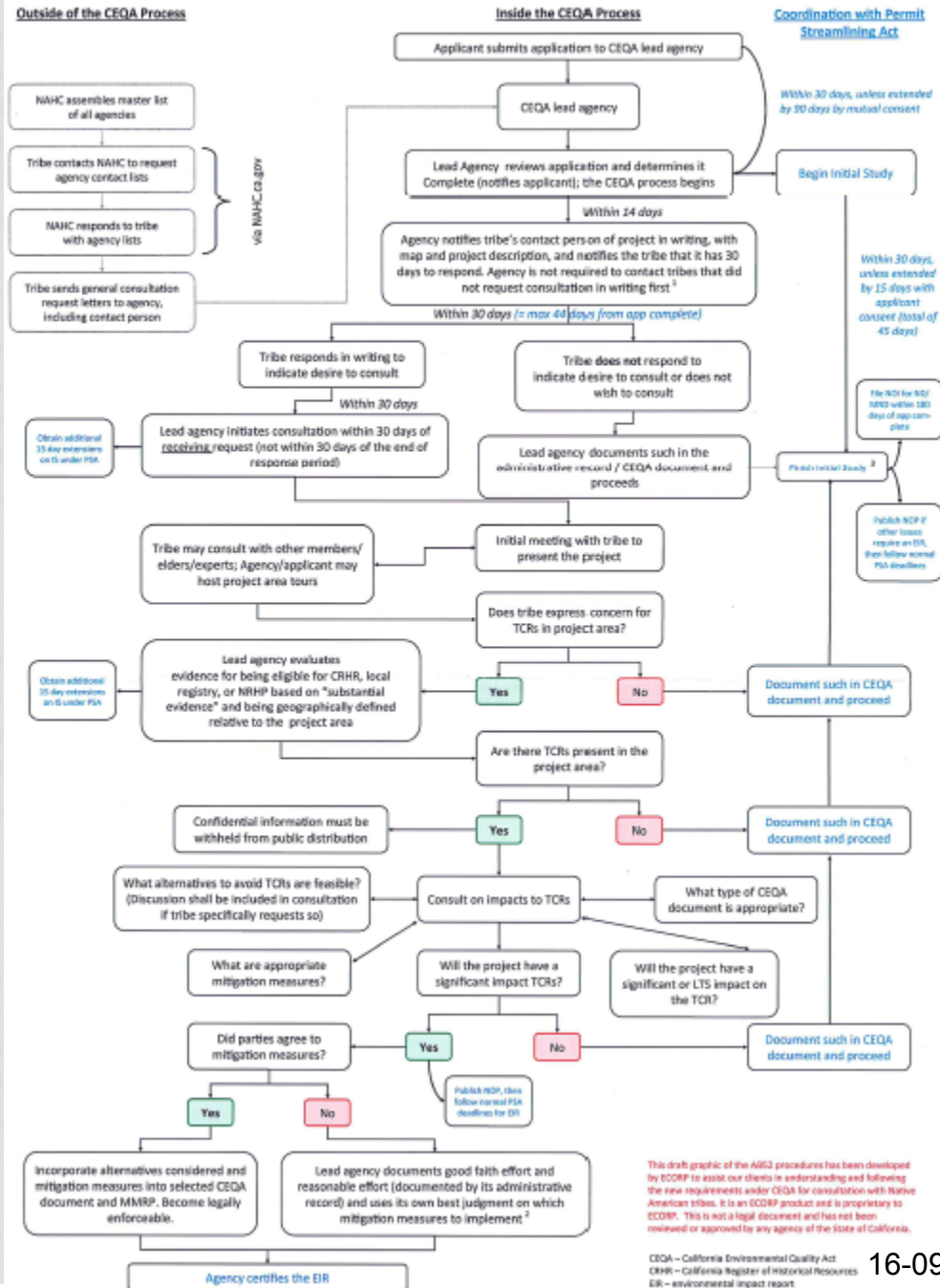




COUNTY'S ROLE

AB 52 TRIBAL CONSULTATION: SUMMARY FLOWCHART

Interpretation of the AB 52 Consultation Process by ECORP



This draft graphic of the AB52 procedures has been developed by ECORP to assist our clients in understanding and following the new requirements under CEQA for consultation with Native American tribes. It is an ECORP product and is proprietary to ECORP. This is not a legal document and has not been reviewed or approved by any agency of the State of California.

POTENTIAL EFFECTS

- **Estimated Additional Costs (Transportation):**
 - \$5000 - \$10,000 (*Est. 50% of projects*)
 - *Minimal or no consultation requested*
 - *Still need to follow AB 52 process*
 - \$10,000 - \$75,000 (*Est. 35% of projects*)
 - *Consultation requested*
 - *Assumes no adverse effects on TCR's / MND*
 - \$75,000 - \$150,000 (*Est. 15% of projects*)
 - *Consultation requested*
 - *Assumes effects on TCR's and EIR*

POTENTIAL EFFECTS

- **Additional Staff Time**
 - No consultation: 5 – 10 hours per project
 - With Consultation: 20 – 60 hours per project
- **Potential Project Delays**
 - 1 month - 2 Years

TO ENSURE COMPLIANCE

- Writing standard operating procedures
 - Internal consistency
- Maintaining detailed administrative record on consultation
- Documenting everything

POLICIES

- As issues come up, policies may need to be established
- Current issue:
 - Request from tribes to be paid for participating in the consultation process or for providing information.

BENEFITS

- Early Communication / Information Sharing
- Builds collaboration and working relationships with tribes that are traditionally affiliated with the area
- Improves relationships and understanding of cultural sensitivity, respect and trust
- Intended to prevent problems from occurring that may lead to the harm of cultural resources, higher costs and delays

BEST PRACTICES

- **Role of County Staff**
 - Keep consultation government to government
 - Respect tribal sovereignty
 - Respect each tribe is different
 - High level agency representatives
 - All involved are bound by confidentiality requirements
 - Good faith and reasonable effort
 - Document, document, document

BEST PRACTICES

- Role of Elected Officials
 - Communicate with tribal leaders
 - Look for collaboration opportunities
 - Sensitivity to confidential information

SUMMARY

- Key items to note about AB 52:
- An environmental document cannot be released until consultation with tribes has been initiated.
- An EIR, MND or ND cannot be certified until AB 52 tribal consultation has concluded.
- Mitigation measures agreed upon between the County and the tribe(s) will be included in the environmental document.

AB 52



- QUESTIONS?