

## ATTACHMENT I: FEDERAL AND STATE REGULATIONS AND STANDARDS

### Federal Regulations and Standards

#### American Antiquities Act of 1906 [16 USC §431-433;

[http://www4.law.cornell.edu/uscode/html/uscode16/usc\\_sup\\_01\\_16\\_10\\_1\\_20\\_LXI.html](http://www4.law.cornell.edu/uscode/html/uscode16/usc_sup_01_16_10_1_20_LXI.html)]

The Federal Antiquities Act of 1906 states that the government, acting for the people, should protect archaeological and historical sites and any object of antiquity, and preserve them for public availability. It forbids the disturbance of objects of antiquity on federal lands without a permit issued by the responsible agency. This Act established criminal sanctions for the unauthorized use or destruction of antiquities.

#### Historic Sites, Buildings, Objects, and Antiquities Act of 1935 [16 USC §461-467;

[http://www4.law.cornell.edu/uscode/html/uscode16/usc\\_sup\\_01\\_16\\_10\\_1A\\_20\\_I.html](http://www4.law.cornell.edu/uscode/html/uscode16/usc_sup_01_16_10_1A_20_I.html)]

The Historic Sites Act of 1935 states that it is the national policy to preserve for the public use historic sites, properties, buildings, and objects of national significance. It gives the National Park Services (NPS) (through the Secretary of the Interior) broad powers to execute this policy, including criminal sanctions, on both federal and non-federal lands. This Act also set up an advisory board to aid the Secretary of the Interior in implementing this Act.

#### Reservoir Salvage Act of 1960 [16 USC §469-469c;

[http://www4.law.cornell.edu/uscode/html/uscode16/usc\\_sec\\_16\\_00000469----000-.html](http://www4.law.cornell.edu/uscode/html/uscode16/usc_sec_16_00000469----000-.html)]

The Reservoir Act of 1960 requires the Secretary of the Interior to institute an archaeological salvage program in connection with federally funded reservoir programs requiring the responsible agencies to comply with this program.

#### Department of Transportation Act of 1966 [49 USC §303;

[http://www4.law.cornell.edu/uscode/html/uscode49/usc\\_sec\\_49\\_00000303----000-.html](http://www4.law.cornell.edu/uscode/html/uscode49/usc_sec_49_00000303----000-.html)]

The Department of Transportation Act of 1966 requires the Secretary of Transportation to cooperate and consult with the Secretaries of Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities. The Secretary of Transportation may approve a transportation program or project requiring the use of publicly owned land of a public park, recreation area, or wildlife refuge of National, State, or local significance, or land of

an historic site of National, State, or local significance only if (1) there is no prudent and feasible alternative to using that land; and (2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

**National Historic Preservation Act (NHPA) of 1966** [16 USC §470 et seq.;

[http://www4.law.cornell.edu/uscode/html/uscode16/usc\\_sec\\_16\\_00000470----000-.html](http://www4.law.cornell.edu/uscode/html/uscode16/usc_sec_16_00000470----000-.html)]

Section 106 of the National Historic Preservation Act establishes a consultation process which is intended to provide for historic preservation concerns with the needs of Federal endeavors. The Section 106 process only applies to projects involving Federal land, funds or permits. It requires a Federal Agency with jurisdiction over a Federal, federally assisted, or federally licensed endeavor to take into account the effects of the agency's endeavor on properties included in or eligible for the National Register. The process requires that prior to approval of an endeavor, the Advisory Council on Historic Preservation be provided a reasonable opportunity to comment on the project. Consulting parties are the primary participants in this process and may include Federal Agencies, the State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation and other interested persons (local governments, applicants, Native American individuals and groups, and the general public). This process requires that Federal Agencies to the maximum extent possible undertake planning actions as may be necessary to minimize harm to any National Historic Landmark or other eligible property that may be directly or adversely impacted by an endeavor.

**National Environmental Policy Act (NEPA) of 1969** [42 USC §4321;

[http://www4.law.cornell.edu/uscode/html/uscode42/usc\\_sup\\_01\\_42\\_10\\_55.html](http://www4.law.cornell.edu/uscode/html/uscode42/usc_sup_01_42_10_55.html)]

The National Environmental Policy Act of 1969 requires that cultural resources be considered in assessing the environmental impact of proposed federal projects.

**Archaeological and Historical Preservation Act of 1974** [16 USC §469-469c;

[http://www4.law.cornell.edu/uscode/html/uscode16/usc\\_sec\\_16\\_00000469----000-.html](http://www4.law.cornell.edu/uscode/html/uscode16/usc_sec_16_00000469----000-.html)]

The Archaeological and Historical Preservation Act of 1974 amends the Reservoir Salvage Act of 1960 to include all federal programs, which may impact cultural resources. It authorizes expenditure of program funds for salvage projects, and requires the Secretary of the Interior to report annually to Congress on the effectiveness of the program.

**Federal Land Policy and Management Act of 1976** [43 USC §35;

[http://www4.law.cornell.edu/uscode/html/uscode43/usc\\_sup\\_01\\_43\\_10\\_35.html](http://www4.law.cornell.edu/uscode/html/uscode43/usc_sup_01_43_10_35.html)]

The Federal Land Policy and Management Act of 1976 directs the Bureau of Land Management (BLM) to manage lands on the basis of multiple use in a manner that will

protect the quality of scientific, historical, and archaeological values. It provides guidelines for the acquisition and management of these resources.

**American Indian Religious Freedom Act of 1978** [42 USC §1996 and §1996a;

[http://www4.law.cornell.edu/uscode/html/uscode42/usc\\_sup\\_01\\_42\\_10\\_21\\_20\\_I.html](http://www4.law.cornell.edu/uscode/html/uscode42/usc_sup_01_42_10_21_20_I.html)]

The American Religious Freedom Act of 1978 states that it is the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian including access to sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites.

**Archaeological Resources Protection Act of 1979** [16 USC §470aa-mm;

[http://www4.law.cornell.edu/uscode/html/uscode16/usc\\_sup\\_01\\_16\\_10\\_1B.html](http://www4.law.cornell.edu/uscode/html/uscode16/usc_sup_01_16_10_1B.html)]

The Archaeological Resources Protection Act of 1979 prohibits the unauthorized excavation, removal, or damage of archaeological resources on federal and Indian lands, and provides penalties for violators.

**National Register of Historic Places, 1981<sup>2</sup>**

[<http://ecfr.gpoaccess.gov>]

The National Register is an authoritative guide to be used by Federal, State, and local governments, private groups and citizens to identify the Nation's cultural resources and to indicate what properties should be considered for protection from destruction or impairment. Listing of private property on the National Register does not prohibit under Federal law or regulation any actions which may otherwise be taken by the property owner with respect to the property.

**Native American Graves Protection and Repatriation Act of 1990 (NAGPRA)**

[25 USC §3001-3013;

[http://www4.law.cornell.edu/uscode/html/uscode25/usc\\_sup\\_01\\_25\\_10\\_32.html](http://www4.law.cornell.edu/uscode/html/uscode25/usc_sup_01_25_10_32.html)]

The Native American Graves Protection and Repatriation Act of 1990 conveys to American Indians, of demonstrated lineal descent, human remains and funerary or religious items that are held by federal agencies and federally-supported museums, or that have been recovered from federal lands. It also makes the sale or purchase of American Indian remains, "whether or not they derive from federal or Indian lands, illegal."

**Intermodal Surface Transportation Efficiency Act of 1991** [23 USC §101, 109;

[http://www4.law.cornell.edu/uscode/html/uscode23/usc\\_sup\\_01\\_23\\_10\\_1\\_20\\_I.html](http://www4.law.cornell.edu/uscode/html/uscode23/usc_sup_01_23_10_1_20_I.html)]

The Intermodal Surface Transportation Efficiency Act of 1991 allows the Secretary of Transportation to approve a project for the National Highway System if the project is

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<sup>2</sup> 36 CFR 60

designed to (1) allow for the preservation of environmental, scenic, or historic values; and (2) ensure safe use of the facility.

**American Battlefield Protection Act of 1996** [16 USC 469k;

[http://www4.law.cornell.edu/uscode/html/uscode16/usc\\_sec\\_16\\_00000469---k000-.html](http://www4.law.cornell.edu/uscode/html/uscode16/usc_sec_16_00000469---k000-.html)]

The purpose of the American Battlefield Protection Act of 1996 is to assist citizens, public and private institutions, and governments at all levels in planning, interpreting, and protecting sites where historic battles were fought on American soil during the armed conflicts that shaped the growth and development of the United States, in order that present and future generations may learn and gain inspiration from the ground where Americans made their ultimate sacrifice.

**National Historic Landmarks Program, 1982** [36 CFR 65;

[http://ecfr.gpoaccess.gov/cgi/t/text/text-](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title36/36cfr65_main_02.tpl)

[idx?c=ecfr&tpl=/ecfrbrowse/Title36/36cfr65\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title36/36cfr65_main_02.tpl)]

The purpose of the National Historic Landmarks Program is to identify and designate National Historic Landmarks, and encourage the long range preservation of nationally significant properties that illustrate or commemorate the history and prehistory of the United States. These regulations set forth the criteria for establishing national significance and the procedures used by the Department of the Interior for conducting the National Historic Landmarks Program.

**Protection of Historic Properties, 1986** [36 CFR 800;

[http://ecfr.gpoaccess.gov/cgi/t/text/text-](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title36/36cfr800_main_02.tpl)

[idx?c=ecfr&tpl=/ecfrbrowse/Title36/36cfr800\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title36/36cfr800_main_02.tpl)]

Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Council a reasonable opportunity to comment on such undertakings. The procedures in this part define how Federal agencies meet these statutory responsibilities. The Section 106 process seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of project planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties.

**Protection of Archaeological Resources, 1996** [43 CFR 7;

<http://ecfr.gpoaccess.gov/cgi>]

These regulations implement provisions of the Archaeological Resources Protection Act of 1979, as amended (16 U.S.C. 470aa-mm) by establishing the uniform definitions, standards, and procedures to be followed by all Federal land managers in providing protection for archaeological resources, located on public lands and Indian lands of the United States. These regulations enable Federal land managers to protect archaeological resources, taking into consideration provisions of the American Indian Religious Freedom Act (92 Stat. 469; 42 U.S.C. 1996), through permits authorizing excavation and/or removal of archaeological resources, through civil penalties for unauthorized excavation and/or removal, through provisions for the preservation of archaeological resource collections and data, and through provisions for ensuring confidentiality of information about archaeological resources when disclosure would threaten the archaeological resources.

**Executive Order 11593 of May 13, 1971 – Protection and Enhancement of the Cultural Environment; Richard M. Nixon** [36 FR 8921;

<http://archnet.asu.edu/Topical/CRM/USdocs/execord.htm>]

Executive Order 11593 states that the federal government shall provide leadership in preserving, restoring, and maintaining the historic and cultural environment. It specifies that all federal agencies shall institute inventories for historic and archaeological sites, and shall provide for their protection as specified by the Historic Preservation Act of 1966.

**Executive Order 12072 of August 16, 1978– Federal Space Management; Jimmy Carter** [43 FR 36869; <http://www.archives.gov/federal-register/codification/executive-order/12072.html?template=print>]

Executive Order 12072 requires the consideration of cultural resources of all kinds in the context of urban centers. This order directs agencies to give priority to siting their activities in central business areas (CBAs). It requires that both the positive and negative cultural effects be considered.

**Executive Order 13006 of May 21, 1996 - Locating Federal Facilities on Historic Properties in Our Nation's Central Cities; William J. Clinton** [61 FR 26071; <http://www.cr.nps.gov/local-law/eo13006.htm>]

Executive Order 13006 requires agencies to give priority consideration to using historic buildings in historic districts in central business areas (CBAs).

**Executive Order 13007 of May 24, 1996 - Indian Sacred Sites; William J. Clinton**  
[61 FR 26771; <http://www.cr.nps.gov/local-law/eo13007.htm>]

Executive Order 13007 requires each executive branch agency with statutory or administrative responsibility for the management of Federal lands to accommodate access to, and ceremonial use of Indian Sacred Sites by Indian religious practitioners and to avoid adversely affecting the physical integrity of such places.

**Executive Order 13175 of November 6, 2000 - Government to Government Consultation; William J. Clinton** [65 FR 67249; <http://www.epa.gov/fedrgstr/eo/eo13175.htm>]

Executive Order 13175 requires Government to Government (Federal to Indian Tribes) consultation when policies are formulated and undertaken that will have tribal implications. The consultation is to include whether to establish Federal standards or any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and authority of Indian tribes.

**The Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, 1983** [48 FR 44716; [http://www.cr.nps.gov/local-law/arch\\_stnds\\_0.htm](http://www.cr.nps.gov/local-law/arch_stnds_0.htm)]

Preservation planning is a process that organizes preservation activities (identification, evaluation, registration and treatment of historic properties) in a logical sequence. The purpose of the Standards are (1) to organize the information gathered about preservation activities; (2) to describe results to be achieved by Federal agencies, States, and others when planning for the identification, evaluation, registration and treatment of historic properties; and (3) to integrate the diverse efforts of many entities performing historic preservation into a systematic effort to preserve our nation's culture heritage. Local governments wishing to establish a comprehensive approach to the identification, evaluation, registration and treatment of historic properties within their jurisdictions should use these standards and guidelines.

**The Secretary of Interior's Standards for Rehabilitation, 1986** [36 CFR 67; <http://www2.cr.nps.gov/tps/tax/rehabstandards.htm>]

The Secretary of the Interior's Standards for Rehabilitation are ten basic principles created to help preserve the distinctive character of a historic building and its site, while allowing for reasonable change to meet new needs.

**The Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings, 1995** [36 CFR 68;

[http://www.cr.nps.gov/hps/tps/standguide/overview/using\\_standguide.htm](http://www.cr.nps.gov/hps/tps/standguide/overview/using_standguide.htm)]

The Secretary of the Interior's Standards for the Treatment of Historic Properties were developed to help protect our nation's irreplaceable cultural resources by promoting consistent preservation practices. The Standards are a series of concepts about maintaining, repairing and replacing historic materials, as well as designing new additions or making alterations; as such, they cannot, in and of themselves, be used to make essential decisions about which features of a historic property should be saved and which might be changed. But once an appropriate treatment is selected, the Standards provide philosophical consistency to the work.

**State Regulations and Standards**

**California Native American Graves Protection and Repatriation Act of 2001**

[AB 978, HSC §8010-8030;

<http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=prc&codebody=&hits=20>]

The California Native American Graves Protection and Repatriation Act of 2001 conveys to American Indians, of demonstrated lineal descendance, human remains and funerary items that are held by state agencies and museums.

**Guidelines for the Curation of Archaeological Collections, 1993**

[<http://ohp.parks.ca.gov/pages/1054/files/guide93.pdf>]

These Guidelines pertain to collections that are excavated or removed from prehistoric or archaeological sites on non-federal public and private land in the State of California in connection with a local governmental agency permit or application for approval. Data generated during the study, excavation, and creation of the collection are considered part of the collection. Archaeological collections and their associated records that are created by compliance with state environmental laws, regulations, and guidelines must be housed at qualified repositories that have the capability to ensure adequate permanent storage, security, and ready access to qualified users.

**Historical Resources** [PRC §5020-5029;

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=prc&group=05001-06000&file=5020-5029.5>]

PRC Section 5020-5029 details the duties of the State Historic Preservation Officer and the State Historical Resources Commission. Two categories (Registered Historical Landmark; Registered Point of Historical Interest) of designation are identified and sign requirements for each are detailed. In addition, State Agencies are to formulate policies

to preserve and maintain, when prudent and feasible, all state-owned historical resources under its jurisdiction listed in or potentially eligible for inclusion in the National Register of Historic Places or registered or eligible for registration as a state historical landmark. Furthermore, details on the listing to the California Register of Historical Resources is discussed to identify the state's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change.

**State Landmarks [PRC §5031-5033];**

<http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=prc&codebody=&hits=20>

PRC Section 5031-5033 outlines the characteristics of a "Qualified Historical Property". Qualified properties include (1) individual sites having structures; (2) facades or portions of entire sites; and (3) historic districts if they are (A) the first, last, only, or most significant historical property of its type in the region; or (B) associated with an individual or group having a profound influence on the history of California; or (C) a prototype of, or an outstanding example of, a period, style, architectural movement, or construction, or if it is one of the more notable works, or the best surviving work, in a region of a pioneer architect, designer, or master builder; (D) a property which is listed on the National Register; or (E) a property which is listed on a city or county register or inventory of historical or architecturally significant sites, places or landmarks, provided, that such property satisfies any of the requirements of A, B, or C above. "Qualified historical property" does not include individual sites without structures. A commercial operation in itself does not necessarily disqualify a landmark's registration. However, should a commercial enterprise by its physical development plans, or its proximity, impact, excessive use, or management philosophy so dilute or erode the significance or quality of the landmark's integrity, then an adverse effect shall have occurred and its registration may be withdrawn.

**California Heritage Fund [PRC §5079-5079.65];**

<http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=prc&codebody=&hits=20>

PRC Section 5079-5079.65 outlines the appropriate uses of the California Heritage Fund. The fund shall be available, upon appropriation by the Legislature, to implement laws providing for historical resource preservation, including, but not limited to, Section 5028 and Executive Order W-26-92, under criteria developed by the Office of Historic Preservation and adopted by the State Historical Resources Commission.

**Archaeological, Paleontological and Historical Sites [PRC §5097-5097.6];**

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=prc&group=05001-06000&file=5097-5097.6>]

PRC Section 5097-5097.6 outlines the requirements for cultural resource analysis prior to the commencement of any construction project on State Lands. The State Agency proposing the project may conduct the cultural resource analysis or they may contract with the State Department of Parks and Recreation. In addition, this section identifies that the unauthorized disturbance or removal of archaeological, historical, or paleontological resources located on public lands is a misdemeanor. It prohibits the knowing destruction of objects of antiquity without a permit (expressed permission) on public lands, and provides for criminal sanctions. Amended in 1987 to require consultation with the California Native American Heritage Commission whenever American Indian Graves are found. Violations for the taking or possessing remains or artifacts are felonies.

**Native American Heritage [PRC §5097.9-5097.991];**

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=prc&group=05001-06000&file=5097.9-5097.991>]

PRC Section 5097.9-5097.991 specifies that no public agency, and no private party using or occupying public property, or operating on public property, under a public license, permit, grant, lease, or contract made on or after July 1, 1977, shall in any manner whatsoever interfere with the free expression or exercise of American Indian religion as provided in the United States Constitution and the California Constitution; nor shall any such agency or party cause severe or irreparable damage to any American Indian sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, except on a clear and convincing showing that the public interest and necessity so require. In addition this section details the composition and responsibilities of the Native American Heritage Commission.

**California Main Street Program [GC §15399-15399.8];**

[http://www.commerce.ca.gov/state/ttca/ttca\\_htmldisplay.jsp?path=Business+%26+Community+Resources&childPath=null&sFilePath=/ttca/detail/D\\_BCR\\_RHTML\\_MainStreet.html&sTableName=TTCA\\_NAV](http://www.commerce.ca.gov/state/ttca/ttca_htmldisplay.jsp?path=Business+%26+Community+Resources&childPath=null&sFilePath=/ttca/detail/D_BCR_RHTML_MainStreet.html&sTableName=TTCA_NAV)]

GC Section 15399-15399.8 establishes the California Main Street Program to provide technical assistance and training for small cities' government, business organizations, and merchants and property owners to accomplish community and economic revitalization and development of older central business districts and neighborhoods. The techniques developed by the National Trust of Historic Preservation's Main Street Center are to be

used to stimulate business reinvestment, restore building facades, retain existing small businesses, strengthen the local tax base, create employment opportunities, promote new businesses in downtown areas, and help to create a renewed sense of community pride.

**Local Government** [GC §25373 & §27288.2];

<http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=gov&codebody=&hits=20>  
GC Section 25373 gives authority to local Governments (Board of Supervisors) to acquire property for the preservation or development of an historical landmark. In addition, local Governments (Board of Supervisors) may by ordinance, provide special conditions or regulations for the protection, enhancement, perpetuation, or use of places, sites, buildings, structures, works of art and other objects having a special character or special historical or aesthetic interest or value.

GC Section 27288.2 requires the county recorder to record a certified resolution establishing an historical resources designation issued by the State Historical Resources Commission or a local agency. For previously designated properties, the county may record the certified resolution establishing the historical resources designation upon submission.

**Mills Act – Historical Property Contracts** [GC §50280-50290];

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=50001-51000&file=50280-50290>  
GC Section 50280-50290 grants local governments the authority to directly implement an historic preservation program. This legislation provides for reduced property taxes on eligible historic properties if the owner agrees to maintain and preserve the property. Preservation of properties is to be in accordance with the standards and guidelines set forth by the Secretary of the Interior. The Mills Act serves as an economic incentive to owners to preserve their historic properties for the benefit of the entire community.

**Hazardous Buildings** [HSC §17922.2];

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=17001-18000&file=17920-17927>  
HSC Section 17922.2 requires that potentially hazardous buildings be strengthened according to subdivision (b) of Section 8875.2 of the Government Code, and shall incorporate the building standards in Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials published in

the California Building Standards Code, except for standards found by local ordinance to be inapplicable based on local conditions. Local conditions are limited to those conditions that affect the implementation of seismic strengthening standards on the following: (1) The preservation of qualified historic structures as governed by the State Historical Building Code (Part 2.7 (commencing with Section 18950)); and (2) Historic preservation programs, including, but not limited to, the California Mainstreet Program.

**State Historic Building Code [HSC §18950-18961];**

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=18001-19000&file=18950-18961>

HSC Section 18950-18961 provides alternative building regulations and building standards for the rehabilitation, preservation, restoration (including related reconstruction), or relocation of buildings or structures designated as historic buildings. Such alternative building standards and building regulations are intended to facilitate the restoration or change of occupancy so as to preserve their original or restored architectural elements and features, to encourage energy conservation and a cost-effective approach to preservation, and to provide for the safety of the building occupants.

**Conservation Easements [CC §815-816];**

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=00001-01000&file=815-816>

CC Section 815-816 outlines what a conservation easement is and who may acquire and hold the conservation easement. Public policy encourages the voluntary conveyance of conservation easements to qualified nonprofit organizations whose primary purpose is the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use or to the state or any city, county, city and county, district, or other state or local governmental entity, if otherwise authorized to acquire and hold title to real property and if the conservation easement is voluntarily conveyed.

**Historic Property Restriction [RTC §439-439.4];**

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=rtc&group=00001-01000&file=439-439.4>

RTC Section 439-439.4 outlines the method that the County Tax Assessor shall use when valuing historical properties that have entered into a Mills Act Contract. In addition, the method of valuation of a property during the non-renewal process is also identified.

## **Destruction Of Historical Properties [Title 14, Part 1; PC §622 ½];**

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=594-625c>

The California Penal Code provides that any person, not the owner thereof, who willingly destroys or injures objects of archaeological or historical value, whether on public or private land, is guilty of a misdemeanor.

## **Traditional Tribal Cultural Places, 2004<sup>3</sup>**

[\[http://www.leginfo.ca.gov/pub/03-04/bill/sen/sb\\_0001-0050/sb\\_18\\_bill\\_20040930\\_chaptered.pdf\]](http://www.leginfo.ca.gov/pub/03-04/bill/sen/sb_0001-0050/sb_18_bill_20040930_chaptered.pdf)

The Traditional Tribal Cultural Places Bill of 2004 requires local governments to consult with Native California groups at the earliest point in the local government land use planning process. The consultation intends to establish a meaningful dialogue regarding potential means to preserve Native American places of prehistoric, archaeological, cultural, spiritual, and ceremonial importance. It allows for tribes to hold conservation easements and for tribal cultural places to be included in open space planning.

## **California Environmental Quality Act (CEQA)<sup>4</sup>**

[\[http://ceres.ca.gov/ceqa/\]](http://ceres.ca.gov/ceqa/)

The California Environmental Quality Act requires that cultural resources be considered when assessing the environmental impacts of proposed projects. Specifically applicable provisions of the State CEQA Guidelines are summarized in Section 3.0.

## **California Register of Historical Resources, 1993<sup>5</sup>**

[\[http://www.leginfo.ca.gov/cgi-bin/displaycode?section=prc&group=05001-06000&file=5020-5029.5\]](http://www.leginfo.ca.gov/cgi-bin/displaycode?section=prc&group=05001-06000&file=5020-5029.5)

The California Register's purpose is to develop and maintain, "an authoritative guide to be used by state and local agencies, private groups, and citizens to identify the state's historical resources and to indicate which properties are to be protected, to the extent prudent and feasible, from substantial adverse change." Sites, places, or objects, which are eligible to the National Register, are automatically included in the California Register.

<sup>3</sup> SB 18, CC §815.3; GC §65040.2, §65092, §65351-52, §65560, §65352.3-52.5.

<sup>4</sup> PRC, § 21000 et. seq. and the State CEQA Guidelines, CCR, §15000 et seq.

<sup>5</sup> PRC §5024.1.

## Human Remains<sup>6</sup>

[\[http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=07001-08000&file=7050.5-7055\]](http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=07001-08000&file=7050.5-7055)

HSC Section 7050.5 requires that in the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlay adjacent remains until the County Coroner has examined the remains. If the Coroner determines the remains to be those of an American Indian, or has reason to believe that they are those of an American Indian, the Coroner shall contact, by telephone within 24 hours, the Native American Heritage Commission. In addition, any person who mutilates or disinters, wantonly disturbs, or willfully removes any human remains in or from any location other than a dedicated cemetery without authority of law is guilty of a misdemeanor.

## Tribal Consultation-SB18 (Burton 2004)

[ftp://www.leginfo.ca.gov/pub/03-04/bill/sen/sb\\_0001-0050/sb\\_18\\_bill\\_20040930\\_chaptered.html](ftp://www.leginfo.ca.gov/pub/03-04/bill/sen/sb_0001-0050/sb_18_bill_20040930_chaptered.html)

This law requires local governments to consult with California Native American Tribes prior to the amendment or adoption of a General Plan, Specific Plan, or designation of Open Space (See Section 815.3 of the Civil Code, Sections 65040.2, 65092, 65351, 65352, 65560, 65352.3, 65352.4, and 65562.5 of the Government Code). Guidelines for conducting consultation with tribes pursuant to SB18 have been provided by the Governor's Office of Planning and Research:

[https://www.parks.ca.gov/pages/22491/files/tribal\\_consultation\\_guidelines\\_vol-4.pdf](https://www.parks.ca.gov/pages/22491/files/tribal_consultation_guidelines_vol-4.pdf)

## Tribal Cultural Resources- AB52 (Gato 2014)

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB52](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB52)

This law amended CEQA (See Sections 5097.94, 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3 of the Public Resources Code) by introducing a new class of environmental resources that must be considered during environmental review; the Tribal Cultural Resource (PRC 21074). It also established a noticing and tribal consultation process for all tribes, federally recognized and federally unrecognized,

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<sup>6</sup> HSC §7050.5.

that are on the Native American Heritage Commission List (PRC 21073) that have requested such consultation. The purpose of the consultation process is to include consideration of tribal values in the determination of project impacts and mitigation regarding tribal cultural resources.

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