

Summary of Public Comments and Responses

On October 13, 2025, the Commission released an updated version of the draft contact list regulations for a 60-day tribal comment and consultation period. On December 11, 2025, the Commission extended the tribal consultation and comment period on the revised draft through January 26, 2026. During the 105-day tribal comment and consultation period, the NAHC conducted two virtual and three in-person listening sessions. Additionally, the Commission engaged in individual consultation sessions with 24 tribes. Comments received during these various listening sessions and consultations as well as written comments provided by 52 tribes are compiled and summarized below.

The NAHC reviewed and considered all comments prior to revising the draft regulations and have provided our direct responses below, combining similar comments where appropriate. In response to these comments, we made the following major changes to the draft regulations:

1. For the purposes of these regulations, added a definition of a non-federally recognized tribe.
2. Removed signatory of one of the eighteen unratified treaties as a criterion for inclusion on the contact list.
3. Broadened the criteria for inclusion on the contact list to specify what constitutes previous federal acknowledgement.
4. Included notification of the opportunity to participate in SB 18 consultation as a tribe as one of the criteria for inclusion on the contact list.
5. Specified which documents are to be submitted in support of a request for inclusion on the contact list.
6. Recognized the NAHC's role in assisting local jurisdictions and project proponents in determining which tribes are traditionally and culturally affiliated with an area and removed the requirement that the Commission approve consultation maps. Instead, the NAHC will accept all maps and share with other tribes when areas of consultation overlap.
7. Provided for voluntary mediation of disputes regarding areas of consultation.

General Comments

1. Comment: The NAHC received numerous comments questioning its authority to develop the contact list and to draft, adopt, and promulgate regulations.

NAHC Response: While SB 18 did not explicitly provide the NAHC with express authority or parameters on how to create or maintain a contact list, it does not mean that the Commission is without authority to craft regulations to carry out its responsibilities under the statute. The law authorizes the NAHC to fill up the details of the statute through regulations.

2. Comment: The NAHC received eight comments stating that the current draft is vastly different from, or a downgrade of, previous versions.

NAHC Response: The revisions made to create the current draft have been informed either by tribal consultation, legal necessity, or administrative requirements which indeed made the second draft different than the one released for tribal comment and consultation in October 2023.

3. Comment: The NAHC received 21 comments that the tribal consultation process should be extended or that the current draft should be withdrawn.

NAHC Response: The NAHC has completed two rounds of tribal consultation amounting to 225 days of tribal comment and consultation, including roundtable discussions throughout the state. The Commission is committed to balancing the need for tribal input with the demand for implementing a transparent regulatory process.

4. Comment: The NAHC received five comments that a working group of California tribes should be created to handle the new draft regulations, and the tribes should be compensated for their expertise.

NAHC Response: Limiting the number of tribes involved in crafting the contact list regulations would be counter to the NAHC's goal of maximum inclusion. Instead, the NAHC believes that the best way to involve tribes in the rulemaking process is to receive written comments, hold listening sessions, and engage in individual consultations with all tribes who wish to be involved.

5. Comment: The NAHC received numerous comments raising concern that non-federally recognized tribes would be removed from the contact list or that the process to request inclusion would be too burdensome.

NAHC Response: The NAHC in its drafting of these regulations does not intend to remove non-federally recognized tribes from the contact list. Instead, the NAHC is developing a transparent process for inclusion of tribes on the list.

6. Comment: The NAHC has received comments both for and against the submission of genealogical evidence in support of a request for inclusion on the contact list.

NAHC Response: The NAHC has removed any requirement of submitting genealogical evidence due to the conflicting information it has gathered on this source material. Instead, the NAHC will be relying on other information available to tribes such as documentation that a tribe has previously been acknowledged as a tribe by the federal government.

7. Comment: The NAHC received four comments stating that the Commission should not implement regulations and should only rely on past practice.

NAHC Response: The NAHC is required to implement regulations in accordance with California state law.

8. Comment: The NAHC received numerous comments raising concerns that the draft disproportionately affects non-federally recognized tribes.

NAHC Response: The draft is not intended to disproportionately impact non-federally recognized tribes. The contact list regulations are intended to create a transparent and uniform process that ensures statewide tribal cultural resources protection.

9. Comment: The NAHC received a comment that submitting genealogical information should be limited to the most likely descendant process.

NAHC Response: The Commission notes that the draft did not include a requirement for submission of genealogical information.

10. Comment: The NAHC received numerous comments raising concern that portions of the state may go unprotected if requests for inclusion on the contact list are denied.

NAHC Response: The regulations are not intended to exclude any group or remove protection for any portion of the state. The regulations are intended to specifically ensure tribal cultural resources protection statewide through a transparent and regulated process.

11. Comment: The NAHC received two comments that the state can and should maintain two separate and distinct statuses for non-federally recognized and federally recognized tribes.

NAHC Response: The draft ensures tribal consultation by both federally and non-federally recognized tribes for the purposes SB 18 and AB 52.

12. Comment: The NAHC received a comment that the draft should hold tribes to a code of conduct with removal from the contact list as a consequence for violations.

NAHC Response: The draft regulations provide for the involuntary removal of a listed entity under certain circumstances.

13. Comment: The NAHC received six comments raising concern over the administrative capacity of the NAHC to process requests for inclusion on the contact list.

NAHC Response: The Commission is confident that it can fulfill its obligations under the revised draft regulations with its current levels of staffing.

14. Comment: The NAHC received a comment that the draft would require an update to the Digital Atlas of California Native Americans (Digital Atlas).

NAHC Response: The Digital Atlas is provided solely for educational purposes and based on user submitted information. The Digital Atlas is not tied to the contact list in any way and so regulations would not require an update of the Digital Atlas.

15. Comment: The NAHC received a comment that it should include safeguards to limit misuse of the contact list by other agencies.

NAHC Response: The draft has a disclosure explicitly stating the intended applicability of the regulations. Any use by another agency is outside of the NAHC's control.

16. Comment: The NAHC received a comment that federally recognized tribes should be notified and provided the opportunity to comment when a new tribe or group requests to be included on the contact list.

NAHC Response: The regulations include 30 days' notice prior to any public hearing on a request for inclusion on the contact list. Information may be submitted by any party, including a federally recognized tribe, no later than ten days before the public hearing. Additionally, public comments may be made at the hearing.

17. Comment: The NAHC received comments raising concern over the authenticity or veracity of documents submitted in support of a request for inclusion on the contact list.

NAHC Response: The draft maintains that all documents submitted must be accompanied by an attestation that the documents are true and correct copies, are available for inspection by Commission staff, and that all information contained within the records is accurate.

Section 31030 (b)

18. Comment: The NAHC received numerous comments requesting that the scope of applicability for these regulations be both broadened and narrowed.

NAHC Response: The NAHC's scope of applicability is set and limited by statute under Chapter 905 of the Statutes of 2004 (SB 18) and Chapter 532 of the Statutes of 2014 (AB 52).) Any other use of the Contact List is outside the scope of these regulations and the NAHC's authority.

Section 31030(c)

19. Comment: The NAHC received numerous comments on the language in Section 3130 pertaining to federally recognized tribes. Some comments requested additional or reduced acknowledgement of federally recognized tribe's political status and sovereignty. Other comments requested an acknowledgement of non-federally recognized tribes.

NAHC Response: The NAHC considered these comments and revised the language to acknowledge that federally recognized tribes are co-equal sovereigns to the State of California that have a unique political status. Furthermore, the regulations were revised to acknowledge that the history of harms and depredations against California Native Americans resulted in many tribes who may lack federal recognition but pursuant

to state law continue to protect and preserve their archaeological, historical, cultural, and sacred sites.

Section 31030(d)

20. Comment: The NAHC received various comments that the regulations are acting as a de-facto state recognition process. Some comments requested a definition be included for a state recognized tribe.

NAHC Response: The NAHC considered these comments and highlights that the contact list regulations do not create a state recognition process for non-federally recognized tribes.

Section 31031

21. Comment: The NAHC received two comments that there is inconsistent terminology across state agencies for non-federally recognized tribes and that NAHC should define California Native American tribe to include state recognition.

NAHC Response: The NAHC considered these comments, and the draft has been revised to include a definition of a non-federally recognized tribe for the purposes of these regulations only. The NAHC does not have the authority to define a non-federally recognized tribe for all statutory purposes.

22. Comment: The NAHC received two comments that there is no definition for consultation map.

NAHC Response: The NAHC considered this comment and updated the draft regulations to provide a definition for “Area of Consultation.”

Section 31031(c)

23. Comment: The Commission received twelve comments requesting that the definition for “Cultural Affiliation” either be removed or clarified.

NAHC Response: The NAHC considered these comments and has removed both the definition and the requirement for a requester to establish cultural affiliation. Instead, a requester now must only show proof of previous federal acknowledgement or notification of the opportunity to participate in consultation as a tribe under SB 18 from 2005 to within one year prior to the effective date of the regulations.

Section 31031(e)

24. Comment: The NAHC received two comments that the Commission should not use the term “Listed Entity”, or at the very minimum the term should be “Tribal Entity.”

NAHC Response: The NAHC considered these comments and added a definition for “Non-Federally Recognized Tribe” to ensure clarity. A Listed Entity is now defined as either a Federally Recognized or Non-Federally Recognized Tribe that is included on the contact list.

Section 31031(i)

25. Comment: The NAHC received three comments requesting changing the preponderance of evidence standard to clear and convincing.

NAHC Response: While the NAHC considered these comments it declines to stray from the evidentiary standard set forth by the California Evidence Code.

Section 31031(j)

26. Comment: The NAHC received 15 comments seeking a revision to the definition of “Requester”.

NAHC Response: The NAHC considered these comments, and the definition has been revised accordingly.

Section 31032(d)

27. Comment: The NAHC received two comments that the contact list should be posted to its website.

NAHC Response: The NAHC has not included posting to the website due to the concern that local jurisdictions or lead agencies will opt for only contacting certain tribes as opposed to all tribes identified by the contact list as culturally affiliated with a particular geographic area.

Section 31032(f)

28. Comment: The NAHC received 14 comments raising concern that there will be gaps in protection or representation during the transition from the current contact list and the first edition produced pursuant to these regulations.

NAHC Response: The NAHC will continue to utilize the current contact list up until the first edition is published. Therefore, there will be no lapse or pause in representation and consultation.

Section 31033

29. Comment: The NAHC received a comment that individuals alone, without showing they are a part of a representative group, should not be on the list.

NAHC Response: The regulations do not allow for the inclusion of individuals on the contact list.

30. Comment: The NAHC received six comments raising concerns that the confidentiality of records submitted in support of a request for inclusion on the contact list will not be maintained.

NAHC Response: The revised draft regulations make clear that other than records exempt from disclosure under the law, which include records of Native American graves, cemeteries, and sacred places, all documents submitted to the Commission are subject to the California Public Records Act and are required to be disclosed upon receipt of a request for records.

Section 31034(a)

31. Comment: The NAHC received 24 comments raising concern over the requirement for establishing cultural affiliation to be on the contact list.

NAHC Response: The NAHC has considered these comments and removed the requirements for establishing cultural affiliation as a part of a request for inclusion on the Contact List.

32. Comment: The NAHC received two comments that acknowledgement of a tribe by local jurisdictions or government agencies should be included as a criteria for consideration for inclusion on the Contact List.

NAHC Response: The draft has been revised to broaden the criteria for inclusion on the contact list by including notification of the opportunity to participate in SB 18 consultation as a tribe.

33. Comment: The NAHC received numerous comments that additional evidence should be considered in determining whether to include a tribe on the contact list. These proposed criteria included: tribal meeting minutes, Woodrow Wilson's 1924 federal land petition and allotment program, ethnographic work conducted by the Catholic church, or evidence of past preservation work.

NAHC Response: The NAHC considered the type of evidence these comments suggested. As a result, the NAHC has included the following as criteria for inclusion on the contact list: notification of the opportunity to participate in SB 18 consultation as a tribe, federal acknowledgment: termination by Act of Congress, receipt of a federal land patent, listing in "Ten Years of Tribal Government under the I.R.A., United States Indian Service, 1947.", or listing in Congressional reports of the Federal Central Office of the Indian Service or the Bureau of Indian Affairs.

Section 31034(b)

34. Comment: The NAHC received three comments against the inclusion of the term "linguistic group."

NAHC Response: After consideration of this comment, the draft has been revised to remove the use of the term "linguistic group."

35. Comment: The NAHC received seven comments, raising concern over the requirement that a non-federally recognized tribe demonstrate the capacity to engage in cultural resource protection as part of the criteria for inclusion on the contact list.

NAHC Response The NAHC considered these comments and chose to remove the capacity requirement as a criteria for inclusion on the contact list.

36. Comment: The NAHC received 13 comments that the criteria for inclusion on the contact list are either too narrow, not specific enough, or may serve to disadvantage tribes that are not federally recognized.

NAHC Response: The draft has been revised to broaden the criteria for inclusion on the contact list by specifying what constitutes previous federal acknowledgement and by including notification of the opportunity to participate in SB 18 consultation as a tribe.

37. Comment: The NAHC received multiple comments both for and against the inclusion of mission records or genealogy as a criterion for inclusion on the contact list.

NAHC Response: The current draft continues to refrain from the incorporation of mission records or genealogy. Instead, the NAHC has added an additional criterion for inclusion on the contact list: evidence supporting previous notification of the opportunity to participate in SB 18 consultation as a Tribe. Further, the NAHC has specified what documents are necessary to support the demonstration of previous federal acknowledgement.

Section 31034(b)(3)

38. Comment The NAHC received 29 comments that there should be clarification and specificity as to what documents could serve as evidence of previous federal recognition.

NAHC Response: The draft has been revised to clarify what constitutes previous federal acknowledgement which includes the following: termination by Act of Congress, receipt of a federal land patent, listing in “Ten Years of Tribal Government under the I.R.A., United States Indian Service, 1947.”, or listing in Congressional reports of the Federal Central Office of the Indian Service or the Bureau of Indian Affairs.

Section 31034(c)

39. Comment: The NAHC received five comments raising concern as to how and with what evidence the regulations would require a requester to establish cultural affiliation to a geographic area.

NAHC Response: The draft has been revised to remove this language, so we decline to address these comments.

Section 31034(e)

40. Comment: The NAHC received 12 comments objecting to the requirement that as evidence of its capacity to engage in cultural resource protection a requestor provide resolutions from culturally affiliated federally recognized tribes attesting to its capacity to engage in these activities.

NAHC Response: The NAHC considered these comments and has now made resolutions of support from federally recognized tribes as additional information that may be provided to the Commission during the public hearing process.

Section 31035

41. Comment: The NAHC received six comments requesting a defined term for the geographic area over which a requester seeks consultation.

NAHC Response: The NAHC considered this comment and has revised the draft to include the defined term “Area for Consultation”.

42. Comment: The NAHC received 23 comments pertaining to disputes arising from overlapping areas of consultation. Clarity was requested on the type of evidence that will be considered in resolving these disputes, if federally recognized tribes will have deference in disputes, and the process by which disputes will be resolved.

NAHC Response: This section has been revised to provide clearer language for when there are overlapping areas of consultation. The draft now provides that the NAHC will accept all maps and share them with other tribes when areas of consultation overlap. If conflicts arise amongst those on the contact list regarding the area of consultation and they want the Commission to provide assistance, mediation may be requested.

Section 31035(a)(1)

43. Comment: The NAHC received five comments raising concern that Commission mediation will be mandatory in the event of overlapping areas of consultation.

NAHC Response: The draft regulations were revised to provide that Commission mediation is voluntary. Furthermore, the revisions make clear that resolving disputes about overlapping areas of consultation is not a prerequisite for inclusion on the contact list.

Section 31035(b)(1)

44. Comment: The NAHC received two comments that the process for submitting information regarding the geographic area over which a tribe seeks consultation was confusing and unnecessarily bifurcated between federally recognized and non-federally recognized tribes.

NAHC Response: Revisions to the draft simplify the process by consolidating sections 31035 (a) and 31035 (b) into a singular section 31036.

Section 31037

45. Comment: The NAHC received 17 comments raising concern that public hearings may create unnecessary spectacle and conflict.

NAHC Response: The NAHC has considered and understands this concern. However, as a state agency, the NAHC may only take action, which includes voting on a request for inclusion on the contact list, in a public meeting conducted in accordance with the state's open meeting act.

Section 31038

46. Comment: The NAHC received two comments that all public hearing sections should be consolidated.

NAHC Response: The draft has been revised to consolidate sections related to Commission hearing procedures into one section.

Section 31039

47. Comment: The NAHC received a comment that the mediation section should be relocated to precede the public hearing section.

NAHC Response: The draft has been revised to relocate the mediation section before the public hearing section.

48. Comment: The NAHC received eight comments raising concern that the Commission's involvement in mediation may not always be necessary or appropriate.

NAHC Response: After consideration of these comments, the NAHC updated the draft to make the Commission's involvement in dispute resolution voluntary.

Section 31040

49. Comment: The NAHC received one comment supporting the inclusion of an involuntary removal section and multiple comments raising concern over this section. Specifically, that an involuntary removal process creates infighting, conflict, unsubstantiated attacks, and a lapse in tribal cultural resources protection.

NAHC Response: We note that the draft language only allows for involuntary removal in the event that a listed entity submitted materially false or misleading information and/or documentation in connection with its request for inclusion on the contact list.