Board of Forestry and Fire Protection
&
Department of Forestry and Fire Protection

Guidelines

for

Preparation

of

Program Timberland Environmental Impact Reports

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May 2009

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INTRODUCTION

Purpose

The intent of this document is to provide general, non-regulatory guidance to individuals and organizations preparing Program Timberland Environmental Impact Reports (PTEIR) pursuant to the California Environmental Quality Act (CEQA), California Forest Practice Act (FPA), and California Forest Practice Rules (FPRs). It is hoped that these guidelines prepared jointly by the Board and Department of Forestry and Fire Protection (hereafter "Board" and "Department," respectively) will provide valuable insight to the regulated and regulators alike in order to:

- Promote consistent understanding of the relationship between PTEIRs and other programmatic Environmental Impact Reports (EIR) identified in the California Environmental Quality Act (CEQA);
- Promote consistent understanding of the relationship between the PTEIR and a Program Timber Harvesting Plan (PTHP) tiered to the PTEIR;
- Identify the necessary steps in the preparation of a PTEIR;
- Address the use of "alternate standards" in a PTEIR;
- Highlight the significance of the PTHP Checklist.

These guidelines are not intended to provide broad general guidance on compliance with CEQA, the FPA and FPRs. Where conflicts or omissions exist, the reader must rely upon CEQA, the FPA, and FPRs.

BRIEF HISTORY OF RULE ORIGIN AND DEVELOPMENT

CEQA, Programmatic EIRs and Program Timberland EIRs

CEQA provides the opportunity for public agencies to prepare programmatic EIRs (14 CCR §15168) that analyze the potential impacts of a series of actions that can be characterized as one large, ongoing project. Programmatic EIRs are frequently prepared for development projects with multiple phases (i.e., subdivision developments), ongoing programs (i.e., Vegetation Management Program) or implementing long-term management plans (i.e., State Forest Management Plans). Because programmatic EIRs evaluate actions that are similar due to location, timing, or potential impacts, they can often be mitigated in similar ways, thereby eliminating the need for repetitive review of related actions, impact, and mitigation measures. Due to the level of planning and commitment, program EIRs allow for more comprehensive consideration of the cumulative effects that could arise from a series of actions than would be possible if analyzed on a project-by-project basis. This is particularly the case where the specific components of a future project may not be apparent to the plan developer at the time of analysis. For these reasons program EIRs can provide substantial cost savings to project proponents while providing a level of regulatory certainty.

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CEQA also encourages the concept of "tiering" environmental analysis where possible to reduce redundancy. Typically the review of a proposed action, or series of actions, can be evaluated in a general way under a programmatic EIR. Subsequent, individual actions can then rely on the analysis in the programmatic EIR and provide additional analysis for those site specific activities or situations not addressed in the program EIR.

In 1996, the Board adopted rules (14 CCR §1092 et. seq.) that provided for the programmatic review and tiering of timber harvesting activities. The rules authorized the Director to approve PTHPs where a PTEIR had been certified for the ownership (or multiple ownerships). The PTEIR, certified by the Director, would provide the programmatic impacts analysis and justification of mitigation measures that would be relied upon in each subsequent PTHP. Areas where the PTHP was out of the scope of analysis in the PTEIR could be addressed at the PTHP level.

Current Application of PTEIRs

PTEIRs and PTHPs were originally envisioned as a means to efficiently comply with the environmental analysis necessary to comply with the Forest Practice Act, primarily for timber management purposes. Use of the PTEIR for CEQA documents supporting timber management has been limited to date with only one landownership utilizing this option. However, with the recent increased interest in forest fuels management it became evident that a cost effective means to remove commercial species was necessary to achieve fuels management objectives over multiple ownerships. Two PTEIRs have been developed to allow individual landowners, or groups of landowners, to commercially remove trees under a PTHP, thereby generating income to offset fuel reduction costs. It is conceivable that PTEIRs could be developed to achieve other management purposes as well, including but not limited to conservation easements, ski resort maintenance and development, local public land management and wildlife specific management.

GUIDANCE TO PTEIR PREPARERS

CEQA Procedures and Standards

PTEIRs are developed in compliance with CEQA, the CEQA Guidelines, and CEQA case law while addressing the appropriate FPR requirements. For that reason, PTEIRs are developed under the close supervision of the Department. The Department will only release for public review a document that reflects the Department's own independent judgment (14 CCR §15084).

CEQA authorizes lead agencies to either:

1) Prepare draft EIRs themselves;
2) Contract with others to prepare draft EIRs, or;
3) Accept draft EIRs prepared by others, including the project proponent (14 CCR §15084).

The Department generally relies on the latter approach (3) for the development of PTEIRs; therefore, the project proponent and their consultants and experts must recognize that they are working on the Department's behalf in preparing a PTEIR and will be required to abide by strict protocols in the distribution and review of pertinent environmental data and analysis. A draft PTEIR will be carefully reviewed and analyzed by the Department prior to release for public review in order to ensure it reflects the Department's independent judgment.

CEQA does not have any specific requirements or standards with regard to who can develop environmental documents. However, given that PTEIRs by their very nature support projects through the use of PTHPs, the Department expects that PTEIRs will be developed by a RPF and supported by individuals, groups, organizations or environmental consulting firms intimately familiar with forest management issues, capable of high level environmental analysis and having access to state of the art analytical tools (GIS, forest growth modeling, cumulative effects analysis, etc.). Where necessary the PTEIR developer will be expected to rely on the input of experts and licensed professionals and specialists (e.g., Certified Engineering Geologists (CEGs), biologists, archaeologists, etc.).

Proponent's Responsibilities

Generally, the project proponent (e.g., timberland owner, group of owners, organization preparing PTEIR for use by timberland owners) will be responsible for bearing the expense and performing the various functions leading to PTEIR certification by CAL FIRE. The project proponent is expected to:

1) select necessary contractors;
2) organize and attend scoping meetings and public hearings;
3) meet with appropriate Department Environmental Protection and Forest Practice staff;
4) conduct necessary studies and analyses;
5) participate in consultation with responsible and trustee agencies;
6) prepare administrative draft, public draft and final drafts of all documents;
7) produce sufficient copies of documents for review and distribution;
8) prepare draft notices; produce transcripts from public meetings;
9) organize and conduct site/property visits for lead and responsible agencies;
10) organize and prepare draft response to public and agency comment; and
11) assist in the drafting of all Department approval documents.

Department Responsibilities

Because PTEIRs must be certified by the Director (14 CCR §1092.01(a)) the Department is the lead agency for the purpose of CEQA compliance.

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The Department will be responsible for: ensuring that procedural steps in PTEIR development are completed in accordance with the requirements of CEQA; that the PTEIR and supporting documents meet generally accepted legal standards; and, that the PTEIR meets the intent of the FPA, and is prepared in accordance with the FPRs, specifically, Article 6.8.

As the lead agency for PTEIRs the Department will: participate in "pre-application consultation" (14 CCR §15060.5) meetings with the project proponent as well as other meetings throughout the PTEIR development period; act as hearing officer at public hearings; attend consultation meetings with responsible and trustee agencies; attend project site visits; review and provide comment on administrative, public and final draft documents prepared by the project proponent; and fulfill its responsibilities under CEQA and the FPR's for certifying the PTEIR.

PTEIR Contents

A PTEIR shall, at a minimum, contain the elements described in 14 CCR §§15120 through 15132 and shall be developed with consideration to the guidance provided in 14 CCR §§15140 through 15154. It shall also address the PTEIR content requirements of 14 CCR §§ 1092 and 1092.01. This document provides further guidance pertinent to PTEIR development and the specifics associated with the FPRs and the practice of forestry.

Informational Document (14 CCR §15121)

A PTEIR, like an EIR, is a document meant to inform the public and public agencies of the project being considered for approval by the lead agency, the environmental impacts associated with implementing the project, and the means to reduce impacts through the adoption of alternatives and mitigation measures. A PTEIR is not meant to be a "sales" document, encouraging support for the project, but is rather an unbiased presentation of both the project's environmental benefits and costs. A draft PTEIR circulated for public review must "reflect the independent judgment" of the Department.(14 CCR 15084(e)).

Project Description (14 CCR §15124)

The project description must provide enough detail about the activities to be carried out and the management goals to be achieved, such that it will be clear whether future PTHPs are, or are not, within the scope of the analysis found in the document. Therefore the project description must include: project location (the physical boundaries of the project); project proponents (the ownerships that are included); project goals and objectives (what is to be achieved); and proposed activities (the frequency, intensity of operations). If the PTEIR includes activities to be carried out under an existing management plan, forest or community plan or other planning document, those plans may provide, in part, the basis for the project description.

For example, a PTEIR may be developed for the purpose of facilitating timber harvesting to achieve fuels management objectives across multiple ownerships.

A PTHP submitted to carry out timber operations that is outside of the area identified in the PTEIR as requiring fuel treatments or that proposes silviculture treatments that do not meet the fuel treatment objectives of the PTEIR could be denied by the Department.

A PTEIR's project description should, as appropriate, include other non-timber harvesting related activities, such as quarrying, road improvement, Habitat Conservation Plans, fuels management or restoration projects, which are outside of the Department's approval authority under the FPRs and PTHP. These activities may require the approval of other public or federal agencies including, local government or the Department of Fish and Game, acting as responsible agencies.

Activities proposed in a subsequent PTHP may be found by the Department to be out of scope of the PTEIR if they are not described, are outside of the project area or do not meet the stated goals or objectives. Responsible agencies may find similarly for the actions they approve or permit (see Out of Scope discussion below).

Environmental Setting (14 CCR §15125)

The interaction of the Project Description (the actions to be taken) with the Environmental Setting (the environments that could be affected) provides the basis for determining the potentially significant effects that may arise and types and level of analysis necessary in the PTEIR. The Environmental Setting must describe the physical environmental conditions on the project area, the areas immediately adjacent to the project area as well as regional setting in relation to the project. . As with the Project Description, the Environmental Setting must be written such that future PTHPs clearly are consistent with the PTEIR scope of the analysis.. The more specific and inclusive the environmental setting and analysis the less explanation and justification will be necessary in each subsequent PTHP. It will be up to the PTEIR preparer to determine the appropriate balance between the level of specificity found in the PTEIR, and therefore "coverage" they wish to receive, versus addressing site specific details in each subsequent PTHP.

By example, if the Environmental Setting does not include a description of unique habitats found within the PTEIR area and the PTEIR fails to analyze impacts from timber operations to listed species that may occur within that unique habitat, then a PTHP submitted for such an area would be found to be out of the scope of the PTEIR. In such a situation the PTHP would be required to contain the necessary analysis of the impacts that may occur within this specific habitat and provide appropriate mitigation for consideration by PTHP reviewers (similar to a THP). This may be acceptable in limited situations; however, the value in preparing a PTEIR rapidly decreases with each PTHP submittal that requires extensive, costly analysis.

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The Environmental Setting should include a description of ongoing management activity within the PTEIR area, which may include intensive forest management or no management. The level of ongoing management will generally provide the baseline condition found in the "No Project" alternative (see Alternatives discussion).

The Environmental Setting must also provide a regional context. The effects of the activities proposed in a PTEIR may extend well beyond the property boundaries and influence resources regionally. Regional considerations might include, but are not limited to the status of the air basin, regional water quality control board basin plans and federal Total Maximum Daily Load (TMDL) requirements, anadromous fish, and habitat loss due to fragmentation.

CEQA Analysis

The PTEIR will, at a minimum, consider, and where appropriate analyze, the direct, indirect and cumulative effects to the resources identified in 14 CCR §1092.01(c). In addition, the typical PTEIR will consider the project's impacts to all resource values including those found in the CEQA Checklist (CEQA Guidelines, Appendix G). In conducting an Initial Study (14 CCR §15063) it may be determined that particular resources will not be affected under the management proposed and no additional analysis would be required. This determination shall be stated and justified in the PTEIR.

The level of detail and specificity of the analysis in the PTEIR will be dependent upon:

- The resources the project proponent chooses to expend in PTEIR development;
- The analytical work deferred to the PTHPs;
- The number and nature of alternate standards proposed;
- The homogeneity/heterogeneity of the PTEIR area;
- The size of the PTEIR area;
- Data and information already in hand.

Those resource areas most commonly left for PTHP-by-PTHP analysis include:

- Cultural resources - The PTEIR should address, at a programmatic level, the cultural resources that may be encountered in the PTEIR area, the impacts that may arise from the activities proposed and the general mitigation measures to be applied under various conditions. However, it may be infeasible or impractical to completely survey the PTEIR area prior to PTEIR development. As a result, individual PTHPs will require a Confidential Archaeological Addendum (14 CCR §895.1 and 1092.09(f)) and a PTHP Checklist identifying the mitigations to be applied.
- Biological Resources – Particular listed species, because of their sporadic distribution, transient behavior or scarcity of suitable habitat, may not warrant discussion or analysis in the PTEIR. In addition, surveys of the entire PTEIR area may be impractical.

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PTHPs that may affect these species or their habitat will be required to include the necessary surveys, analysis and mitigation for those affects.

- Minor Watersheds within PTEIR area – Extremely small watersheds or minor portions of larger watersheds within an ownership may not warrant detailed analysis in the PTEIR. Such analysis may be deferred until the PTHP stage.
- Unique habitats/environments – Some soils, vegetation types, or habitats may be extremely limited within a PTEIR area and not warrant the level of analysis given to the more common settings. In addition, some settings (i.e. unstable areas) may require site specific prescriptions that could not be developed in the PTEIR. Therefore, these unique situations, while noted in the PTEIR, would not receive specific analysis or the development of specific mitigation until the development of a PTHP.

The Department, prior to certifying the PTEIR, will determine if the level of detail and specificity found in the PTEIR is sufficient to ensure that all potential environmental impacts are less than significant, or can be mitigated to a level of less than significant.

The PTEIR may approach the analytical task in one of three ways:

- A detailed assessment of the resource on a site specific level. Where the PTEIR provides site specific information, analysis and mitigation, little or no additional work will be necessary to support a PTHP. This might be most applicable to limited, but highly sensitive resources such as old growth stands or known locations of listed species or their habitat.
- A programmatic level assessment of the resource that identifies expected impacts and standard mitigations which may be applied when a particular resource is encountered. A PTHP would need to include the necessary site specific work to determine if the resource was present and whether the standard mitigation was appropriate. This would be best applied to resources that are frequently encountered but too widely distributed to be inventoried such as watercourses, nesting birds or cultural resources.
- A limited discussion and analysis of a potentially effected resource with the acknowledgement that a specific resource inventory and analysis will be conducted at the time of PTHP preparation. This approach would be most appropriate for extremely rare occurrences or where each occurrence requires customized inventory, analysis and mitigation that would be to difficult or costly to address programmatically. Examples include operations in unstable areas, unique habitats or timber inventory for multi-ownership PTEIRs.

Cumulative Effects Analysis (14 CCR §15130)

The cumulative effects analysis is largely guided by the discussion in the CEQA Guidelines §15130. It must include consideration of past THP/PTHPs as well as future THP/PTHPs that are already under development, within the cumulative effects assessment areas.

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It also must give consideration to other non-timber related actions within the assessment area that may contribute to cumulative effects including, activities approved by other state, federal and local agencies.

CEQA Alternatives Analysis (14 CCR §15126.6)

The CEQA Guidelines §15126.6 discusses the alternatives analysis that is required in EIRs. CAL FIRE expects that PTEIRs will contain alternatives that meet the following general requirements:

- There shall be a range of reasonable alternatives to the project, or project location, which would feasibly attain most of the project objectives and would avoid or lessen any of the project's potential significant effects (14 CCR §15126.6(a));
- Feasible alternatives may include alternatives that are more costly to implement or impede to some degree achieving the project's objectives (14 CCR 15126.6(b));
- Each alternative should include a brief rationale for its selection (14 CCR 15126.6(c);
- Alternatives that were considered but rejected should be described briefly and the reason(s) for rejection explained.

At a minimum the alternatives analysis shall include:

- The **Proposed Project** – management as described in the Project Description to achieve the PTEIR's Goals and Objectives;
- The **No Project Alternative** – a continuation of management as in the recent past. This may include;
    - continuing management, THP-by-THP, with operational standards routinely applied that exceed the minimums under the FPRs, or;
    - continuation of management, THP-by-THP, with the minimum operational standards under the FPRs, or;
    - in certain situations, no management, where there has been no recent history of active management.
- A minimum of two additional alternatives that describe a range of management strategies that mitigate one or more of the proposed project's effects while still achieving most of the project's goals. Examples may include; reducing or eliminating evenaged management; avoidance of certain sensitive environments or watersheds; a change in management emphasis or change in ownership; management with, or without, a PTEIR.

The determination as to whether an alternative is feasible is highly dependent on the goals and objectives established by the project proponent in the Project Description. Alternatives that fail to meet most of the project goals are not feasible and should not be analyzed. This demonstrates the importance in clearly articulating the management goals to be achieved under the PTEIR.

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Alternate Standards

Timber operations under a PTHP must comply with the operational (specific prescriptive) standards of the FPRs (14 CCR 1092(b)); however, the PTEIR/PTHP process authorizes the development of **alternate standards** that may be applied on subsequent PTHPs where the analysis in the PTEIR, certified by the Director, is sufficient in demonstrating that any resulting impacts would be less than significant (14 CCR §15382). In determining the adequacy of an alternate standard, and the mitigation associated with its use, the Department must determine, *"What is the resource that is to be protected by the standard rule and is it being protected under the alternative?"*

Alternate standards may be developed for a number of purposes, where:

- The alternate standard will provide equal or better protection than the standard rule due to site specific characteristics, management objectives or unique circumstances;
- The current standard rule provides equal or better protection than an anticipated future Board rule because of site specific characteristics, management objectives or unique circumstances;
- Changes in the environment (i.e., changed circumstances) or changes in regulation (i.e., species listing) are anticipated and addressed, *a priori*, in an alternate standard that provides equal or better protection than an expected new standard rule;
- The constraints of the standard operational rules preclude unique management objectives (e.g., fuels management, research, habitat requirements), or conflict with provisions of other local, state or federal permits (e.g., HCP, NCCP, SMARA) and the proposed alternate standards provide equal or better protection.

PTHPs utilizing alternate standards **are** in compliance with the operational standards of the Board where the alternate standards have been analyzed in a PTEIR certified by the Director (14 CCR §1092(b)). Where a PTEIR is "silent" on a particular rule or resource, PTHPs must conform to the standard operational rule and any subsequent changes in the rules unless explained and justified in the PTHP (§1092.09(o)). In the event the Board adopts new rules and a PTHP is submitted that tiers to a PTEIR with alternate standards to old rules, the Department will need to determine if the alternate standard provides equal or better protection than the new rule.[1]

Certain project proponents may not wish to develop alternate standards in their PTEIR because they are unnecessary for achieving the goals or objectives described in the Project Description.

The analysis of alternative standards may proceed along one of several lines: a **rule-by-rule analysis** of alternative practices; **a resource based analysis**; or, some combination of the two.

[1] Memo from the Board of Forestry and Fire Protection dated February 8, 2007 – Appendix "A".

Rule-by-Rule Analysis – Where alternate standards are proposed in the PTEIR the analysis must demonstrate that the alternate standard proposed provides equal or better protection than the standard rule and does not pose a significant effect on the environment. This analysis may focus on alternatives to the current operational rules or propose alternate standards in anticipation of future Board changes in the operational rules or the regulations of other agencies. An alternative to a specific rule may be found to provide equal or better protection where:

- The analysis provided in the PTEIR provides sufficient evidence to support a finding of a less than significant effect on the environment;
- The resource to be protected by the standard rule is absent in the areas to be treated by subsequent PTHPs;
- The site specific characteristics within the PTEIR or PTHP area cannot result in impacts from applying the alternate standard;
- The treatment(s) proposed cannot result in impacts from applying the alternate standard;
- The overall management of the ownership(s) subject to the PTEIR cannot result in impacts from applying the alternate standard;
- The provisions of other permits (HCP, NCCP, SMARA) cannot result in impacts from applying the alternate standard.

The rule-by-rule approach is more limiting in the forms of mitigation that may be applied as each alternate standard must be found to result in a less than significant effect; as such, the avoidance of impacts is the preferable, and often the only available mitigation strategy. Where appropriate, the explanation and justification for nonstandard practices (i.e., waivers, exceptions, in-lieu practices, and alternative practices) approved on previous THPs within the PTEIR area may be a starting point for the analysis to support an alternate standard.

Where the PTEIR does not address a particular operational rule, future PTHPs must comply with the applicable operational standard found in the FPRs in effect at the time of PTHP submittal (CCR 1092(b)).

Resource Based Analysis – Rather than a rule-by-rule analysis, the PTEIR can provide an analysis that demonstrates that proposed management, in its entirety, will result in a less than significant impact to a specific resource, or multiple resources. The proposed management may be described in an operational plan (forest management plan, HCP, etc.), be presented in the form of best management practices, or consist of a “suite” of alternate operational standards focused on protecting a particular resource or group of resources. As with the rule-by rule approach, the resource based approach can anticipate changes in the rules, other agency regulations, or environmental changes and develop strategies that meet or exceed anticipated future resource protection goals for the resource.

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The resource based approach to the analysis of alternate standards is more conducive to the broader array of mitigation strategies identified in CEQA - avoiding, minimizing, rectifying, reducing and compensating - thus allowing for a "balancing" of individual minor effects such that the impact to the resource, as a whole, is less than significant, or even beneficial. This allows for the adoption of mitigation measures that are separate and distinct from the direct impact, such as off-site restoration and remediation, mitigation banking, conservation easements and deed restrictions. The resource based analysis approach focuses, not on the numbers (e.g., culvert size or buffer width) but on the protection afforded the resource (e.g., maintaining water quality, restoring habitat).

Landowners may choose to develop alternate standards under a combination of these two approaches where it best meets their land management objectives and ownership.

Demonstration and Implementation of Maximum Sustained Production

Maximum Sustained Production (MSP) rules (ref. 14 CCR § 913.11 [933.11, 953.11]) state that (emphasis added), "*MSP is achieved by meeting the requirements of either (a) or (b) or (c) in a THP, SYP or NTMP, <u>or as otherwise provided in Article 6.8, Subchapter 7</u>*" (which are the PTEIR rules).

PTEIR rule 14 CCR § 1092 (b) states that "*…operational (specific prescriptive) standards*" of Article 3 {i.e. silviculture and MSP rules} "*shall apply to all timber operations conducted under a PTHP*" unless alternate standards "*which provide equal or better protection*" to the affected resource has been accepted by the Director.

The Board of Forestry has defined **sustained yield** as "*the yield of commercial wood that an area of commercial timberland can produce continuously at a given intensity of management consistent with required environmental protection and which is professionally planned to achieve over time a balance between growth and removal"* (14 CCR § 895.1). Related with concepts of sustained yield, 14 CCR § 913.10 and 913.11 require an estimate of LTSY, which is defined as "*the average annual growth sustainable by the inventory predicted at the end of a 100-year planning period*" (14 CCR § 895.1). In timber production, where the crop to be harvested often takes 50 to 100 years to mature, the purpose of a 100-year planning period is to estimate the long term consequences of consistently applying existing management practice over time. The **LTSY value** is intended to estimate a harvest level that is sustainable in to perpetuity under a particular management regime.

Additionally, PTEIR's are subject to the standards found in CEQA; therefore, the PTEIR must provide an analysis that leads to a finding that the management proposal for a series of actions will result in a less than significant impact to the timberland resource, both in the short and long term.

Depending on landowner goals (e.g. timber production, fuels management, wildlife, watershed health, etc.), several methods for performing an analysis may exist and the appropriate method may be dependent on the intensity of management proposed and the goals and objectives of the project proponent as identified in the Project Description. Regardless of analytical method selected, the following general standards and considerations would likely apply:

- Define all assumptions, policies and goals;
- Quantify timber inventory baseline at sufficient resolution for making management decisions and for accurately projecting future estimates of growth, harvest and inventory levels over the planning horizon;
- Identify all constraints that limit timber production;
- Establish stocking levels deemed sustainable for the desired management intensity and that assures protection of other public-trust resources;
- Establish the transitional prescriptions necessary to attain sustainability;
- Conduct scheduling of harvests for all planning units that balances growth with harvest for the assessment area within the 100 year planning horizon. (The Department recognizes that it may not be possible to balance growth and harvest within the 100-year planning horizon for the poorest site productivity classes).
- Implementation and monitoring consistency; elements used to monitor consistency shall be based on the following inputs and outputs: (1) stand age for even-age regeneration prescriptions, (2) stand structure for partial-cut prescriptions, (3) volume control, and (4) area control, all at the resolution that the assessment is based. Define monitoring schedule that incorporates these components.
- Prepare a technical report of the analysis that establishes the baseline, the balanced state, the transitional steps necessary to reach the balanced state, and a monitoring plan based on core components described above;
- Stochastic events such as wildfire or insect outbreaks are not normally addressed in a harvest schedule unless they occur in clearly predictable cycles.
- The methodology selected for the analysis must be compatible with defined goals and objectives identified in the PTEIR's Project Description.

PTEIR Term (Effective Period)

The term or effective period of CEQA documents, including PTEIRs, is not explicit in either the FPRs or CEQA. A PTEIR is effective until environmental conditions substantially change or new significant effects are identified (14 CCR §1092.28(c)) and the PTEIR no longer achieves the resource protection goals of the FPA (14 CCR §1092.02).

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It is the Department's responsibility, as lead agency, to determine that the PTEIR is no longer capable of providing the analysis necessary to support the approval of future PTHPs. The landowner can reach this determination independently and no longer submit PTHPs tiered to the PTEIR, effectively abandoning the document and adopting either another PTEIR or alternative planning documentation. Alternatively, the landowner may submit new or updated information, analysis and mitigations for consideration by the Department in amending or supplementing the PTIER (14 CCR §1092.28). This new information may require the recirculation of the PTEIR (see Amended, Subsequent and Supplemental PTEIRs below).

The PTEIR preparer or Department as lead agency may choose to establish a fixed term for the PTEIR or identify the specific circumstances under which the PTHPs could no longer tier to the PTEIR. This strategy may alleviate some concern by review agencies over the uncertainty associated with environmental and regulatory changes that could occur over an extended period.

PTHPs That Are Out Of Scope

PTHPs found to be out of scope of the certified PTEIR cannot be approved. The PTHP submitter may choose to: withdraw the PTHP and submit a THP in its place; amend the PTHP to be within the scope of the PTEIR; or may amend the PTEIR to broaden its scope (14 CCR §1092(d) (see Amending PTEIRs, below).

Amending PTEIRs

In the event the Department or plan proponent determines a PTEIR no longer achieves the resource protection goals of the FPA, no other PTHPs tiering to the PTEIR will be approved unless the PTEIR is amended. The Department's criteria for determining whether to require the preparation of an addendum to the PTEIR, a supplemental PTEIR or a subsequent PTEIR will be based upon the guidance found in 14 CCR §§15162 through 15164. Supplemental and subsequent PTEIRs will require the same noticing, public review and certification as the original PTEIR. While the PTEIR is being amended and providing MSP requirements pursuant to CCR §933.11 et seq. are obtained, timber operations may be approved using standard THPs.

Multiple ownerships

PTHPs may be prepared for ownerships where a PTEIR has been certified for "an ownership, a portion of an ownership, or multiple ownerships" (14 CCR 1092.01). Because the cost of preparing a PTHP tiering to a PTEIR is likely less than a THP, small property owners may realize a substantial savings when their ownership is included within a PTEIR area. Groups of landowners may pool their resources or seek outside funding to develop a PTEIR that meets their particular goal(s). This may include, but is not limited to, PTEIRs for the purpose of:

- Encouraging the management of a watershed, or multiple watersheds, with numerous owners, having similar characteristics, management constraints and mitigations.

- Providing for a cost effective means to implement fuels treatments in accordance with an approved fire plan across multiple small ownerships.

Individual ownerships within an area covered by a multiple ownership PTEIR may submit a PTHP tiering to the PTEIR or may choose to submit a standard THP that does not tier to the PTEIR. It should be noted however, that the actions of one or a few owners may affect all the owners potentially included in such an agreement if such action results in a substantial change the environmental setting, MSP, or project goals and objectives.

PTHP Checklist Development

The CEQA Guidelines recommend that site specific projects carried out under an approved program EIR be accompanied by a checklist that demonstrates that the project site and activities proposed are covered by the program EIR (14 CCR §15168 (c)(4)). This concept has been adopted in the FPRs such that PTHPs must be accompanied by a checklist that demonstrates that the operations proposed are within the scope of the analysis found in the PTEIR (14 CCR §1092.01(b)).

The checklist must be developed as part of the PTEIR process and focus on the site specific impacts and practices as described in the PTEIR and indicate the mitigation measures to be applied for resource protection (14 CCR 1092.01(c). The completed checklist must contain a listing of the alternate practices as presented and analyzed in the PTEIR (14 CCR §1092.09(n)). In addition, the checklist must confirm that:

- A PTHP is within the scope of the PTEIR;
- Practices and/or treatments proposed in a PTHP are consistent with the goals and objectives found in the PTEIR's Project Description and were analyzed in the PTEIR;
- Site specific characteristics (vegetation, soil, climate, slopes, site class, adjoining lands uses, etc.) of a PTHP area are encompassed in the "Environmental Setting" described in the PTEIR;
- All deviations to the standard operational rules (alternate standards) proposed in a PTHP were analyzed in the PTEIR and found to provide equal or better protection;
- All activities resulting in the potential for significant effects are identified;
- The mitigations found in the PTEIR are implemented in a PTHP where appropriate.

Coordination with other permits

Landowners that undertake the cost and effort necessary to acquire a certified PTEIR may wish to utilize some of the information and analysis in obtaining other permits through other permitting agencies. These may include:

- Approval of an Incidental Take Permit and a Natural Communities Conservation Plan (NCCP) by the California Department of Fish and Game pursuant to Fish and Game Code §2835 and 2820.

- A Master Streambed Alteration Agreement pursuant to Fish and Game Code §1602 and 1605(g).
- Approval of an Incidental Take Permit and Habitat Conservation Plan by the Fish and Wildlife Service or National Marine Fisheries Service pursuant to the Endangered Species Act, 16 U.S.C.A. §1531 et seq.

Permits from federal agencies require the identification of a federal lead agency and the development of a joint CEQA/NEPA document in compliance with 14 CCR §15170 and 15220 et seq. The Director may approve a PTEIR and PTHP where "take" would occur if incidental take has been authorized under the ESA or CESA (14 CCR §1092.21(d)).

PTEIR's may also prove to be beneficial in the management of the timberlands associated with other local agency approved projects, including:

- Ski resort operation and development
- Green space management in approved subdivisions or golf courses.
- Community wildland fuel management plans.

Typically the Department will be the lead agency for certifying the PTEIR (14 CCR §1092.02) and ensure that the PTEIR contains the information necessary for other public agencies to make their necessary approvals. In the event that another agency is the lead agency for a project where a PTEIR is being considered the PTEIR may be drafted as a separate document that focuses on timber management while tiering to the lead agency's CEQA document for the project as a whole.

DEPARTMENT REVIEW OF PTEIRs

The Department is required to determine the adequacy of a PTEIR under both the FPRs and CEQA. The following rule sections specifically address a PTEIRs adequacy under the FPRs:

- 1092(b) – "…alternate standards may only be accepted by the Director when the PTEIR provides an analysis demonstrating that the implementation will result in impacts which are below the level of significant effect as define in the State CEQA Guidelines (14 CCR 15382) and other applicable laws."
- 1092(c) – "Alternate standards may only be used in a PTHP where the analysis of potential impacts and mitigations in the PTEIR is of such detail that a reasonable person could reach a conclusion that the resulting impacts would be less than significant."
- 1092(d) – "…the planning (performance) standards which are to be incorporated into a THP under the functional equivalent process shall be addressed within the PTEIR to achieve the performance objectives set forth in the intent language of the regulation. The PTEIR shall demonstrate how resource protection set forth in the intent of the Act is provided for on the area encompassed by the PTEIR."

- 1092.01(b) - "The PTEIR shall assess impacts and provide mitigation for those on and off-site impacts resulting from timber operations involved with an ownership, portion of an ownership, or multiple ownerships. …"
- 1092.01(c) - The checklist which accompanies a PTHP must be developed in each PTEIR to address the site specific impacts and practices for each ownership, portion of an ownership, or multiple ownerships. The checklist shall indicate mitigation to be applied in all areas of resource protection addressed in the PTEIR for individual and cumulative effects, including but not limited to air, wildlife, water, soil, recreation, hazard reduction, pest protection, noise, aesthetics, cultural resources, areas regulated by the board in Sections 4513, 4551, 4551.5, 4561, and 4581 of the Public Resources Code."
- 1092.02 – "In certifying the PTEIR and adopting the CEQA findings the Director shall certify that the timberland management described in the PTEIR will achieve the resource protection goals in PRC Sections 4513, 4551, 4561, and 4581 and any goals that may be required by CEQA."

The Department's certification of the PTEIR, issuance of findings and project approval shall follow the procedures found in 14 CCR §§ 15090 through 15092.

Director's Review of PTHP and Review Team function

- PTHP Rules do not include Review Team (no second review as in 14 CCR §1037.5) which means:
    - No Review Team meetings
    - No identification of new significant effects by Review Team members
    - No suggested alternatives or mitigation by Review Team members
    - No requests for additional information from the RPF
    - No Review Team recommendations
    - No Non-Concurrence
- Preharvest inspection held, if necessary to determine consistency w/ PTEIR (1092.16)
- Written comments are solicited by Director (1092.18(c)) and should focus on consistency with the PTEIR, the Act, the Rules and other laws.
- Director will consider all comments (1092.18(c)) and respond in writing to issues raised (1092.19)
- Director determines if PTHP is within the scope of the PTEIR (1092.20)

Determining if PTHP is "within scope" of PTEIR (1090.20(b))

- In reviewing the PTHP the Director shall determine if:
    - Activities proposed in the PTHP could result in impacts not considered in the PTEIR
    - Substantial changes have occurred leading to impacts not covered in PTEIR
    - New information becomes available regarding impacts or mitigation showing:

    - The PTHP would have impacts not disclosed in the PTEIR
    - Impacts would be substantially more intensive/extensive than shown in PTEIR
    - Mitigations/alternatives found to be infeasible are now found to be feasible
    - New feasible mitigations or alternatives not previously considered are identified

PTHPs that are "out of scope" of the PTEIR

- Because there is no Review Team, PTHP submitters cannot propose new mitigation to address "out of scope" issues that are identified in preparing or reviewing the PTHP.

- PTHP submitters have the following options when a PTHP is out of scope (1092.01(d)):
    - PTHP may be modified to be within the scope of the PTEIR
    - The PTHP may be withdrawn and a THP submitted, or
    - The PTEIR may be amended to cover out of scope issues and a new PTHP submitted.

- In addition, PTHPs may be written to address issues not covered in the PTEIR by:
    - Explanation and justification of any operational practices which are allowed under the standard rules with explanation and justification (1092.09(o))
    - Relying on any of the standard operational rules (which have already been through CEQA in the BOF rulemaking process)

- To minimize out of scope issues on PTHPs, PTEIRs should be written to:
    - Anticipate site specific situations and write appropriate mitigation
    - Write mitigation that is flexible enough to accommodate unforeseen situations
    - Mitigation measures may include requirements to consult with lead, responsible and trustee agencies and agreeing to abide by their recommended mitigation measures

DRAFT

STEPS IN CEQA PROCESS FOR PTEIRS[2]

Pre-Application Consultation (CCR 15060.5)

While not mandatory, PTEIR preparers are encouraged to meet with CAL FIRE and other permitting or trustee agencies to discuss the proposal and each party's respective interests, permitting authorities and responsibilities.

Initial Study (CCR 15063)

Conducting an Initial Study/CEQA Checklist may aide in identifying what potentially significant effects could arise and thereby focus the PTEIR's analysis.

Scoping (CCR 15082)

As the CEQA lead agency, CAL FIRE is required to file a Notice of Preparation, informing public agencies and the general public that it has begun the preparation of an EIR and is interested in soliciting their comments on the potential impacts that might arise as well as suggested mitigation and project alternatives that should be considered in the EIR. Scoping may include holding public meetings and includes early consultation with public agencies and interested groups and members of the public.

Administrative Draft PTEIR (CCR 15084)

An administrative draft PTEIR must be prepared for review and comment by CAL FIRE. The PTEIR must reflect CAL FIRE's independent judgment prior to it release for public comment.

Formal Consultation and Public Comment (CCR 15086/15087)

The draft PTEIR must undergo a minimum of 45 day public review during which public and public agency comment on the adequacy of the PTEIR occurs. This requires filing the draft document at the State Clearinghouse, notification, and making the document available. Public meetings/hearings may be held at this time.

Response to Comments Received (CCR 15088)

Following the close of public comment CAL FIRE must respond, in writing, to all comments received.

Consideration of Re-Circulation (CCR 15088.5)

Comments received on the draft PTEIR may have identified new potentially significant effects that were not addressed. CAL FIRE must consider whether there is a need to re-circulate that draft PTEIR for additional comment.

Final PTEIR (CCR 15089)

CAL FIRE must prepare a final PTEIR that includes the comments received, response to those comments and all changes and revisions to the draft PTEIR.

Certification and Approval (CCR 15090/15091/15092

CAL FIRE must certify the PTEIR, make findings with regard to the potentially significant impacts and the mitigation identified to lessen those impacts and approve the project (the ongoing timber management occurring under the PTEIR).

PTHP Submission

PTHPs may be submitted, to CAL FIRE for approval, that tier to the practices and analysis found in the certified PTEIR.

[2] These steps conform to the process for EIRs found in the CEQA Guidelines.

APPENDIX "A"

BOARD MEMORANDUM REGARDING FOREST PRACTICE RULES FOR PTEIRs and PTHPs

Date: February 8, 2007 **MEMO**

From: State Board of Forestry and Fire Protection

To: Secretary Chrisman, Resources Agency; Department Directors; Regional Water Quality Control Boards; other Review Team participants; other interested parties.

Subject: **An Explanation of the Forest Practice Rules for Program EIRs and THPs (Title 14, Article 6.8, California Code of Regulations).**

In 1996 the Board recognized environmental and social benefits from long-term comprehensive forest planning such as the Sustained Yield Plan (SYP) and the Non-Industrial Timber Management Plan (NTMP) and adopted a set of rules authorizing the use of another long-term comprehensive forest management plan that would incorporate the use of a Program Timber Environmental Impact Report (PTEIR) and a Program Timber Harvesting Plan (PTHP). (See, Rulemaking Record, Initial Statement of Reasons, p. 226.)

The new rules were to "establish a type of THP that, where applicable, would reduce the level of effort required to prepare THPs by relying to the extent possible on the environmental assessment and planning embodied in a previously prepared PTEIR." (Ibid.) The purpose was to provide an alternative and streamlined THP process that meets the requirements of both CEQA and the Forest Practice Act. (Id. at 227.) The Board proposed the new rules to "provide greater management flexibility to timberland owners, to enable timberland owners to avoid redundant repetition of environmental assessment for timber operations, and to similarly avoid effort on the part of agencies to review practices that have previously been determined to be environmentally sound." (Ibid.)

The Board listed several advantages of the proposed program over project-level planning. They include:

1. The opportunity for more comprehensive consideration of impacts and alternatives than would be practical in an individual THP;

2. A focus on cumulative impacts that could be more easily overlooked in a case by case analysis;

3. The avoidance of continual reconsideration of previously-resolved environmental issues;

4. The ability to consider broad policy alternatives and programmatic mitigation measures at an early stage when the plan submitters and

agencies have greater flexibility to adopt such alternatives and measures and;

5. The reduction of THP-related workload and paperwork by encouraging the reuse of relevant data and analysis. (Id. at 227-228.)

Thus, the Board intended the program to provide timberland owners an opportunity to provide a long term comprehensive program for protecting public resources over a large ownership area rather than parcel by parcel. The Board intended that those who used the program would adopt broad approaches, alternatives and mitigation measures for the larger ownership area and thereby reduce the need to make changes plan area by plan area. This is in conformance with the intent of the Forest Practice Act and the Legislature's mandate to the Board to adopt rules to provide for protection of public resources while also assuring the continuous growing and harvesting of commercial forest tree species. (See, Pub. Resources Code §§ 4512, 4513 and 4541.)

To implement this long-term comprehensive forest management planning process, the Board adopted various rules setting forth the requirements for participation in the program. Among these are the requirements that certified PTEIRs meet the resource protection goals of the Forest Practice Act and any goals required by CEQA; assess impacts and provide mitigation for on and off site impacts resulting from timber operations; indicate mitigations to be applied in all areas of resource protection for individual and cumulative effects, including but not limited to air, wildlife, water, soil, recreation, hazard reduction, pest protection, noise, aesthetics, cultural resources and areas regulated by the Board in Sections 4513, 4551, 4551.5, 4561, and 4581 of the Public Resources Code; address the planning (performance) standards within Division 1.5, Chapter 4, subchapters, 1, and 3-6 of the Forest Practice Rules (FPRs); demonstrate how resource protection set forth in the intent of the Forest Practice Act is provided for on the area encompassed by the PTEIR; and address all the operational (specific prescriptive) standards of the FPRs (specifically California Code of Regulation, Title 14, Division 1.5, Chapter 4, Subchapters 4-6, Articles 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, and 14). (Cal. Code Regs, tit. 14, §1092, subds (b) and (d); 1092.02, 1092.01, subds. (b) and (c)).

How does a PTHP relate to the PTEIR and how is it different than a THP?
A certified PTEIR by itself does not and cannot authorize timber operations. Timber operations are authorized through a PTHP, which, like THPs, must demonstrate that timber operations conducted pursuant to the PTHP meet the requirements of CEQA, the FPA and the rules of the Board. (Cal. Code Regs., tit.14 §1092.01, subd. (b).) But, unlike THPs, PTHPs meet these requirements by relying upon the environmental analysis contained in the PTEIR. (Ibid.) In addition to section 1092.01 (b), the Board's Initial Statement of Reasons indicates that this is just what the Board intended. Without reliance on the PTEIR, PTHPs could not be streamlined, there would be no avoidance of redundant repetition of environmental analyses, the program would be no different than the

THP program and the purposes of the Board in enacting the program would not be served.

The Board intends that PTHPs must meet the requirements of the Forest Practice Act and the rules of the Board. (Cal. Code Regs. tit. 14 §1092.01, subd. (b).) PTHPs must comply with Section 4583 of the Public Resources Code. Section 4583 states that a, "timber harvesting plan shall conform to all standards and rules which are in effect at the time the plan becomes effective." Thus, a PTHP, through the analyses, mitigations, alternate operational standards and other requirements in its PTEIR, must conform to all standards and rules which are in effect at the time the PTHP becomes effective. (See also, Cal. Code Regs., tit. 14 §1092.01, subd. (c), 1092.22 and 1092.23.)

If a rule changes after a PTEIR is certified but before the PTHP becomes effective, the PTHP must conform to the new rule. And, if a rule changes after a PTHP becomes effective the PTHP must conform to the new rule unless the timberland owner has already incurred substantial liabilities in good faith for the timber operations and adherence to the new rules or modifications would cause unreasonable additional expense. (Pub. Resources Code § 4583.) Thus, all timber operations including those already authorized by a PTHP must conform to new rules unless the stated exception applies.

Can a submitter rely upon alternate standards set forth in a PTEIR to demonstrate compliance with new operational rules?

The FPRs include a rule that timberland owners may develop *alternate* operational standards in a PTEIR provided that the owners demonstrate that proposed alternate operational standards provide equal or better protection to the resource which may be impacted by the timber operations. (Cal. Code Regs., tit. 14 §1092, subd. (b).) A timberland owner who utilizes alternate standards in a PTEIR may already provide equal or greater protections for the resource than the new operational rule provides. Thus, when the Board passes a new operational rule, it is appropriate for the PTEIR to be evaluated by the Director to determine whether the PTEIR already addresses the impacts the new rule is designed to address and whether the protections in the PTEIR are equal to or better than the protection provided by the new rule. If the PTEIR provides such protections, the PTHP submitter shall identify in the PTHP, those provisions of the underlying PTEIR which provide protection equal to or better than the protection called for in any new operational rules. (See, Cal. Code Regs., tit. 14 §1092.09, subd. (n).)

If the Director determines that the analysis in the PTEIR demonstrates that the alternate standard does provide protection equal to or better than the new rule, then the PTHP conforms to the protection requirements of the new rule (see, Cal. Code Regs., tit. 14 §1092, subd. (b).) If, after referring to the PTEIR analysis, the Director determines that the PTHP will not be in conformance with a new rule, the Director must inform the submitter of the changes and reasonable conditions that are needed to bring the PTHP into conformance with the new rule. (Cal. Code Regs., tit. 14 §1092.22).

Program Timber EIR and THP

14 CCR §1092-1092.32

APPENDIX "B"
Staff Presentation on PTEIR/PTHP

Definitions

- The definition adopted by the Board on October 9, 1996 states that PTEIR, "…means a ***Program Environmental Impact Report in compliance with CEQA*** for ongoing management of timberlands, including timber operations and related land management practices which require permits from public agencies." (Emphasis added)

- According to the CEQA Guidelines, 14 CCR §15168(a) states that a "…Program EIR ***is an EIR*** which may be prepared on a series of actions that can be characterized as one large project." (Emphasis added)

- The definition of a Program Timber Harvest Plan (PTHP) also adopted by the Board on October 9, 1996 and found in 14 CCR §895.1 states that a PTHP, "…means a Timber Harvesting Plan prepared by an RPF which ***relies upon a PTEIR for CEQA compliance*** and meets the standards of PRC Section 4581. The PTHP must be within the scope of the PTEIR, the rules of the Board and other applicable state laws." (Emphasis added)

APPENDIX "B"
Staff Presentation on PTEIR/PTHP

The Certified Regulatory Program vs. The PTEIR

- The PTEIR and particularly the PTHP are **not** "functionally equivalent" documents and **not** part of the Resources Agency's Certified Regulatory Program for Timber.

Pursuant to §1092(d):

- "Within 14 CCR Division 1.5, Chapter 4, Subchapters 1, and 3-6, **the planning (performance) standards which are incorporated into a THP *under the functional equivalent process* shall be addressed within the PTEIR** to achieve the performance objectives set forth in the intent language of the regulation. The PTEIR shall demonstrate how resource protection set forth in the intent of the Act is provided for on the area encompassed by the PTEIR." (Emphasis added)

Pursuant to §1092.01(b):

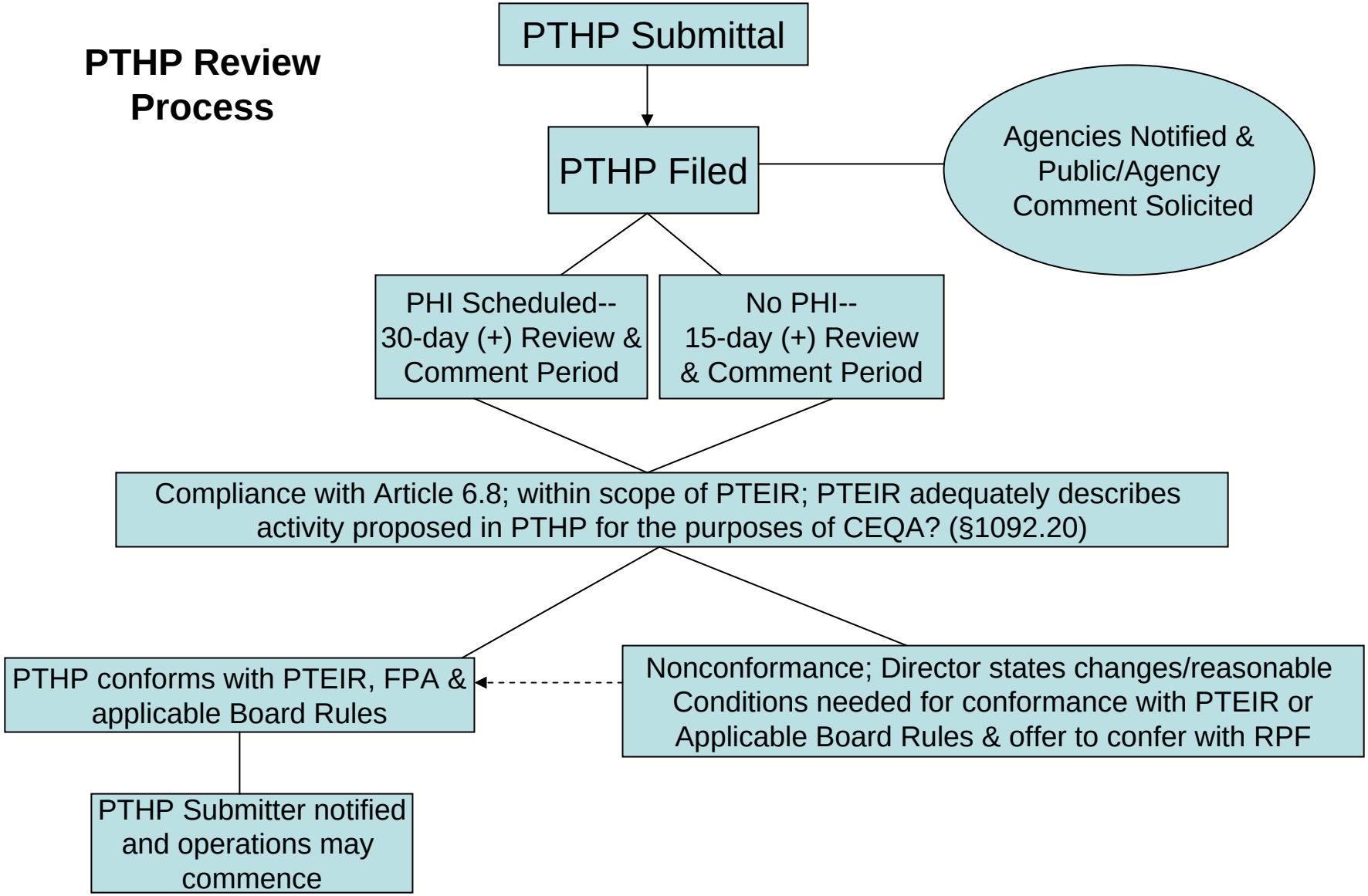
- "Use of the PTEIR establishes the need for a **separate THP process** which is provided in this Article." (Emphasis added)
- "The PTHP **relies upon** the environmental analysis contained in the PTEIR." (Emphasis added)
- "The PTHP fulfills the requirements of CEQA by being written within the scope of the analysis contained in the PTEIR."
- "The PTHP also must meet the requirements of the Forest Practice Act and the rules of the Board."

APPENDIX "B"
Staff Presentation on PTEIR/PTHP

§1092.02 Director's Guidance for Review of PTEIR

"In certifying the PTEIR and adopting the CEQA findings the Director shall certify that the timberland management described in the PTEIR will achieve the resource protection goals in PRC Sections 4513, 4551, 4561, and 4581 and any goals that may be required by CEQA."

PTHP Review Process



APPENDIX "B"
Staff Presentation on PTEIR/PTHP

§1092.20 Director's Guidance for Review of PTHP

(a) In reviewing a PTHP the Director shall determine if the PTHP is in compliance with the rules of the Board specified in 14 CCR Article 6.8 and whether the proposed activity is within the scope of the PTEIR, and that the PTEIR adequately describes the proposed activity for the purposes of CEQA.

(b) In determining if the PTHP is within the scope of the PTEIR the Director shall determine if one or more of the following conditions exist which requires action under 14 CCR §1092.01(d):

(1) Where activities are proposed in the PTHP that could result in significant environmental impacts not considered in the PTEIR.

(2) Where substantial changes have occurred with respect to the circumstances under which the PTHP is undertaken that could result in significant environmental impacts not previously covered; or

(3) Where new relevant information regarding impacts or mitigation measures becomes available that shows any of the following:

§1092.20 Director's Guidance for Review of PTHP (Continued…)

A) the PTHP would have one or more significant effects not disclosed in the PTEIR.

B) effects previously examined would be substantially more intensive or extensive than shown in the PTEIR.

C) mitigation measures or alternatives previously determined to substantially reduce one or more significant impacts but found to be infeasible would in fact be feasible, or

D) feasible mitigation measures or alternatives not previously considered in the PTEIR were identified that would substantially reduce one or more significant effects.

Pursuant to §1092.01(d), "Where a PTHP is found by the Director not to be within the scope of the PTEIR, the PTHP Submitter has the following alternatives:

1) the PTHP may be modified to be within the scope of the PTEIR,

2) the PTHP may be withdrawn and submitted as a THP **under the functional equivalent process**, or (Emphasis added)

3) an addendum, supplement or subsequent PTEIR may be prepared and certified which addresses any remaining impacts identified in the PTHP."

Mendocino Redwood Company's Questions
Regarding the PTEIR and PTHP

Compliance with the California Environmental Quality Act (*Question 1*)

Section 1092.01(b) explains that PTHP's comply with the California Environmental Quality Act (CEQA) by conforming to and remaining within the scope of the analysis contained in a PTEIR.

It is therefore our understanding that PTEIR's and PTHP's may comply with CEQA by meeting CEQA's requirements for Environmental Impact Reports (EIR's). Is this understanding consistent with the Board's perspective and intent?

Review of MRC Question #1

- According to the CEQA Guidelines, 14 CCR §15168(a) states that a "…Program EIR ***is an EIR*** which may be prepared on a series of actions that can be characterized as one large project." (Emphasis added)

- The definition adopted by the Board on October 9, 1996 states that PTEIR, "…means a ***Program Environmental Impact Report in compliance with CEQA*** for ongoing management of timberlands, including timber operations and related land management practices which require permits from public agencies." (Emphasis added)

- Pursuant to §1092.02 "In certifying the PTEIR and adopting the CEQA findings the Director shall certify that the timberland management described in the PTEIR will achieve the resource protection goals in PRC Sections 4513, 4551, 4561, and 4581 and any goals that may be required by CEQA."

- §1092(d) Within 14 CCR Division 1.5, Chapter 4, Subchapters 1, and 3-6, the planning (performance) standards which are ***incorporated into a THP under the functional equivalent process*** shall be addressed within the PTEIR to achieve the performance objectives set forth ***in the intent language of the regulation***. ***The PTEIR shall demonstrate how resource protection set forth in the intent of the Act is provided for on the area encompassed by the PTEIR***. (Emphasis added)

- The definition of a Program Timber Harvest Plan (PTHP) also adopted by the Board on October 9, 1996 and found in 14 CCR §895.1 states that a PTHP, "…means a Timber Harvesting Plan prepared by an RPF which ***relies upon a PTEIR for CEQA compliance*** and meets the standards of PRC Section 4581. The PTHP must be within the scope of the PTEIR, the rules of the Board and other applicable state laws." (Emphasis added)

APPENDIX "B"
Staff Presentation on PTEIR/PTHP

Mendocino Redwood Company's Questions
Regarding the PTEIR and PTHP

Alternate Standards (*Question 2*)

Section 1092(b) and section 1092(c) of the Forest Practice Rules provide that alternate standards may be used in a PTHP if a PTEIR provides a sufficiently detailed environmental analysis that supports the conclusion that use of the alternate standards will result in environmental impacts that are less than significant.

It is our understanding then that the accepted alternative standards remain valid throughout the effective period of the PTEIR. Is this understanding consistent with the Board's perspective and intent?

Review of MRC Question #2

14 CCR §1092 (b):

- Within 14 CCR Division 1.5, Chapter 4, Subchapters 4-6, Articles 2, 3, 4, 5, 6, 7, 8,9,11,12,13, and 14, the operational (specific prescriptive) standards of the rules shall apply to all timber operations conducted under a PTHP.

- ***However, as necessary for site-specific project level management, alternate standards can be developed which provide equal or better protection to the resource which may be impacted.*** (Emphasis added)

Review of MRC Question #2

14 CCR §1092 (c):

- Where the PTEIR has adequately addressed an environmental impact, the PTHP need only include reference to the PTEIR provisions.

- ***Alternate standards may only be used in a PTHP where the analysis of potential impacts and mitigations in the PTEIR is of such detail that a reasonable person could reach a conclusion that the resulting impacts would be less than significant.*** (Emphasis added)

Mendocino Redwood Company's Questions Regarding the PTEIR and PTHP

Effective Period of a PTEIR (*Question 3*)

Section 1092.28 of the Forest Practice Rules states, "The PTEIR will be effective until such time as substantial changes in conditions occur or significant environmental impacts are identified which are not addressed in the PTEIR."

Is it the Board's intent that the effective period of a PTEIR will be the same as that of other environmental impact reports, as provided in Section 15162 of the CEQA Guidelines?

Review of MRC Question #3

- According to the CEQA Guidelines, 14 CCR §15168(a) states that a "…Program EIR ***is an EIR*** which may be prepared on a series of actions that can be characterized as one large project." (Emphasis added)

- Pursuant to § 1092.28(c):

  The PTEIR will be effective until such time as substantial changes in conditions occur or significant environmental impacts are identified which are not addressed in the PTEIR. When this occurs the PTEIR may be amended or supplemented to address such new information. Alternatively, PTHP's may be modified to fall within the scope of the PTEIR.