Guidance in the Preparation

and Review of

Program Timberland Environmental Impact Reports

Board of Forestry
and
Fire Protection

Department of Forestry
and
Fire Protection

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INTRODUCTION

Purpose

The purpose of this document is to provide general guidance to the developers, as well as the reviewers, of Program Timberland Environmental Impact Reports (PTEIR) and Program Timberland Harvesting Plans (PTHP) relative to:

- the relationship between PTEIRs, as described in the Forest Practice Rules, and program environmental impact reports (EIR), as described in the California Environmental Quality Act (CEQA);
- the linkage between the PTEIR and the PTHP;
- compliance with the Forest Practice Act (FPA), the Forest Practice Rules (FPR) and CEQA when preparing PTEIRs and PTHPs;
- approaches to addressing "alternate standards" in a PTEIR;
- California Department of Forestry and Fire Protection's (CAL FIRE) roles and responsibilities in reviewing and approving PTEIRs and PTHPs.

This document provides supplemental information to assist in the development and review of PTEIRs and PTHPs. Where conflicts or omissions exist, the reader must rely on the FPA, FPRs and CEQA.

BRIEF HISTORY OF RULE ORIGIN AND DEVELOPMENT

CEQA, Programmatic EIRs and Program Timberland EIRs

In approving projects, public agencies typically rely on the project specific analyses and mitigation measures found in the environmental document for each individual project. However, when a public agency is considering the approval of numerous, similar projects, the project-by-project analysis and mitigation measure development can become repetitive and inefficient. In addition, the cumulative effects associated with similar projects approved over time can often be overlooked in a project-by-project approach. The CEQA Guidelines provide the opportunity for public agencies to prepare program EIRs (CCR[1] § 15168) that analyze programmatically the potential impacts of a series of actions that can be characterized as one large, ongoing project. Program EIRs are frequently prepared for development projects with multiple phases (i.e., subdivision developments), ongoing programs (i.e., CAL FIRE's Vegetation Management Program) or implementing long-term management plans (i.e., State Forest Management Plans). Individual projects that are similar due to actions taken, location, and/or timing and having similar potential impacts that can be mitigated in similar ways, may be evaluated collectively in a program EIR thereby eliminating the need for repetitive review. Due to the broad program scope and early consideration of project impacts, program EIRs allow for a more comprehensive consideration of the cumulative effects that could arise from a

[1] CCR refers to Title 14 of the California Code of Regulations and includes the CEQA Guidelines adopted by the Natural Resources Agency and the California Forest Practice Rules (FPR) adopted by the Board of Forestry and Fire Protection.

series of actions than would be possible if analyzed on a project-by-project basis. This is particularly the case where the specific elements of a future project may not be apparent to the plan developer at the time of analysis. In anticipating the specific impacts that may arise on individual future projects and developing mitigations to be applied that avoid or lessen those impacts to a level of less than significant, a well crafted program EIR can mitigate project effects both individually and cumulatively. By developing and approving program EIRs, both project proponents and permitting agencies can realize substantial time and cost savings over the traditional project-by-project approach. In addition, the project proponent achieves a degree of regulatory certainty over future project approvals, having already obtained public agency determination of the adequacy of the program EIR in addressing project effects.

CEQA also encourages the practice 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 program EIR. Subsequent, individual actions can then rely on the analysis in the program EIR and provide additional analysis for those site-specific activities or situations not addressed programmatically.

In 1996, the Board adopted rules (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, provides the programmatic impacts analysis and justification of mitigation measures relied upon in each subsequent PTHP. PTHPs undergo a more limited and expedited review and approval process, tiering to the analysis and mitigations found in the PTEIR, as compared with the review of a typical THP.

Current Application of PTEIRs

PTEIRs and PTHPs were originally envisioned as a means to efficiently comply with the environmental analysis required under the Forest Practice Act, primarily for timber management purposes. However, with recent increased interest in forest fuels management, it appeared that PTEIRs would be a cost effective means to remove commercial species over multiple ownerships while achieving fuels management objectives. In addition, some landowners have considered PTEIR development in conjunction with other landscape level planning efforts such as Habitat Conservation Plans or Natural Communities Conservation Plans. It is conceivable that PTEIRs could be developed to achieve other management purposes as well, including but not limited to the management of conservation easements, recreation facility maintenance, local public land management and wildlife specific management.

GENERAL GUIDANCE TO PTEIR PREPARERS

Procedures and Standards for drafting PTEIRs

The FPRs provide specific guidance on the preparation and review of PTHPs; however, there is little guidance on PTEIR preparation or review. Instead, PTEIRs are developed

in compliance with CEQA, the CEQA Guidelines, and CEQA case law while addressing the appropriate FPR requirements.

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 (CCR §15084).

CAL FIRE 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 CAL FIRE'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. Regardless of the source, PTEIRs are developed under the direction of CAL FIRE and must be certified by the Director. Draft PTEIRs are carefully reviewed and analyzed by CAL FIRE prior to release for public review in order to ensure such documents reflect CAL FIRE's independent judgment (CCR §15084).

Use of professionals in developing PTEIRs

CEQA does not have any specific requirements or standards with regard to the qualifications of environmental document preparers (CCR § 15149). However, given that PTEIRs involve the management of "forested landscapes" (PRC[2] § 754), CAL FIRE expects that Registered Professional Foresters (RPFs; CCR § 1600) will be utilized where appropriate in their development. In addition, the PTEIR, and any supporting studies or analyses, must be prepared by individuals, companies, 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 will be expected to rely on the input of experts and licensed professionals and specialists (e.g., Certified Engineering Geologists (CEGs), biologists, archaeologists, etc.).

Project Proponent's Responsibilities

Generally, the project proponent[3] (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:

[2] PRC refers to the Public Resources Code and includes the California Environmental Quality Act (CEQA) and the Z'berg-Nejedly Forest Practices Act.
[3] In the event CAL FIRE is the project proponent for a PTEIR these responsibilities would become CAL FIRE's.

- select necessary contractors (subject to CAL FIRE approval);
- organize and attend scoping meetings and public hearings;
- meet with CAL FIRE Environmental Protection and Forest Practice staff;
- conduct necessary studies and analyses;
- participate in pre-consultation/consultation with public agencies;
- prepare administrative draft, public draft and final drafts of all documents;
- produce sufficient copies of documents for review and distribution;
- produce transcripts from public meetings;
- organize and conduct site/property visits for lead and responsible agencies;
- organize and prepare draft response to public and agency comment;
- assist in the drafting of all Department approval documents; and,
- bear the costs of all permits and filing fees.

Department Responsibilities

Because PTEIRs must be certified by the Director (CCR § 1092.01(a)), CAL FIRE is the lead agency for the purpose of CEQA compliance. CAL FIRE 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; that the PTEIR meets the intent of the FPA; and that the PTEIR is prepared in accordance with the FPRs (specifically, Article 6.8).

As the lead agency for PTEIRs, CAL FIRE will: participate in "pre-application consultation" (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 FPRs for certifying the PTEIR.

PTEIR Contents

A PTEIR shall, at a minimum, contain the elements described in CCR §§ 15120 through 15132 and shall be developed with consideration to the guidance provided in CCR §§ 15140 through 15154. It shall also address the PTEIR content requirements of 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

A PTEIR, like an EIR, is a document meant to inform the public and public agencies on 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 CAL FIRE (CCR § 15084(e)).

Project Description

The project description (CCR § 15124) 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 PTEIR. Therefore the project description must include: project location (the physical boundaries of the project area); project goals and objectives[4] (what is to be achieved); proposed activities (the types, frequency and intensity of operations); the timing of operations; and the means to carry out the project as proposed (equipment, tools, personnel, etc.). 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.

CEQA requires a project description to include "the whole of an action" (CCR § 15378). Therefore, the PTEIR's project description should, as appropriate, include other proposed non-timber harvesting related activities, such as quarrying, road improvement, fuels management or restoration projects, which may be outside of CAL FIRE's approval authority under the FPRs, but are considered part of the project none-the-less. These related activities may require the permitting or approval of other federal, state or local agencies.

Activities proposed in a subsequent PTHP may be found by CAL FIRE 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.

Environmental Setting

The Environmental Setting (CCR § 15125) must describe the physical environmental conditions on the project site, as well as adjacent or proximate areas, that may be directly or indirectly impacted by the project. The interaction of the Project Description (the actions to be taken) with the Environmental Setting (the environments and resources that could be affected) provides the basis for determining the level of analysis necessary in the PTEIR to determine whether project impacts are significant and in identifying the feasible measures that mitigate project effects. As with the Project Description, the Environmental Setting must be written such that future PTHPs are clearly consistent with the scope of the analysis in the PTEIR. The more specific the description of the environment covered by the PTEIR, the greater the breadth of future PTHPs that will be found to be within the scope of the PTEIR. It will be up to the PTEIR preparer to

[4] A detailed listing of the goals and objectives to be achieved in implementing the PTEIR is necessary: 1) to determine what alternatives to the proposed project are analyzed in the PTEIR; 2) for CAL FIRE to make the finding in CCR § 15091; and, 3) in determining whether future PTHPs are consistent with the PTEIR.

determine the appropriate balance between the level of specificity in the PTEIR, and therefore "coverage" they wish to receive, versus the increased potential to find that subsequent PTHPs are out of scope. By example, if the Environmental Setting does not include a description of a unique habitat found within the PTEIR area and the PTEIR therefore does not 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.

The Environmental Setting should include a description of ongoing management activity occurring within the PTEIR area in order to contribute to a better understanding of the existing environment (baseline condition). This may include a description of the types of forest management, the intensity of forest management (or no management), and the purpose of said management (recreation, wildlife, timber, etc.).

The Environmental Setting must also provide a regional perspective (CCR § 15125(a)). The effects of the activities proposed in a PTEIR may extend well beyond the property boundaries and influence, or be influenced by, regional resource conditions. Regional considerations might include, but are not limited to local air quality standard attainment, regional water quality control board basin plan requirements, Total Maximum Daily Load (TMDL) requirements, status of anadromous fish or other listed species, and habitat fragmentation.

CEQA Analysis

The PTEIR will, at a minimum, consider, and where appropriate analyze, the direct, indirect and cumulative effects of future PTHPs on the resources identified in CCR § 1092.01(c). In addition, the typical PTEIR will consider the PTHP's potential impacts to all resource values including those found in the CEQA Checklist (CEQA Guidelines, Appendix G).

Resource Areas To Be Considered In A PTEIR

Aesthetics	Land Use/Planning
Agricultural and Forest Resources	Mineral Resources
Air Quality	Noise
Biological Resources	Population and Housing
Cultural Resources	Public Services
Geology and Soils	Recreation
Green House Gas Emissions/Climate Change	Transportation and Traffic
Hazards and Hazardous Materials	Utilities and Service Systems
Hydrology and Water Quality	Social and Economic Effects[5]

[5] A PTEIR may consider the social or economic changes of the project where it is related to a physical change and used in determining whether the physical change is significant.

Generally, completing an Initial Study (CCR § 15063) is one of the first steps necessary in preparing an EIR by focusing future analysis on the impacts that are likely to arise as a result of approving the project.

After conducting an Initial Study, it may be determined that particular resources will not be affected under the management proposed and no additional analysis of those resources would be required. For example, it may be determined that future PTHPs will never result in a significant impact to Public Services; 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:

- CAL FIRE's informational needs in certifying and approving the PTEIR and making CEQA findings in accordance with CCR §§ 15090 through 15092;
- The resources the project proponent chooses to expend in PTEIR development;
- The analytical work deferred to 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.
- Anticipated changes in the physical setting from, natural or man-made causes, which may alter the probability of significant adverse impacts or the effectiveness or proposed mitigation.

A PTEIR that addresses potential resource impacts specifically and in detail is likely to result in most subsequent PTHPs being found in scope. However, where the analysis is general, or deferred to a later time, the potential for PTHPs to be found to be out of scope increases. It will be up to the PTEIR preparer to strike a balance between programmatic review and project level review that meets their objectives.

Those resource areas reasonably left for PTHP-by-PTHP analysis include:

- Cultural Resources[6] – The PTEIR should address, at the programmatic level, the kinds of cultural resources known or likely to occur within the PTEIR area, the potential impacts to such resources resulting from program/project activities, and how such impacts would be avoided or mitigated under various conditions. The PTEIR preparer has a choice to make in establishing the scope of cultural resource investigations to be completed up-front during the development of the PTEIR. The following discussion will provide information on the advantages or disadvantages of the various options to be considered.

  Option 1 – Maximize Deferral. This option would postpone cultural resource inventory, recording and impact evaluation work to the time a PTHP is submitted. The PTEIR would need to include a brief section on Cultural Resources to discuss how such resources will be identified and protected during the operations authorized by the programmatic document. A list of the tasks to be completed which are required

[6] The term ***cultural resources*** is used in this document to mean archaeological, historical, or Native American traditional sites, features, or artifacts.

by the FPRs would be appropriate disclosure including a statement that a Confidential Archaeological Addendum (CAA) will be included with each subsequent PTHP (CCR § 1092.09(f)).

Option 2 – Maximize Up-Front Cultural Resource Work. This option would complete cultural resource inventory, recording and impact evaluation work for the entire area encompassed by the PTEIR during the time that document is prepared. The Confidential Archaeological Addendum to the PTEIR would cover the entire area, identify all cultural resources which exist on the property, specify how each one will be managed or protected, and include an assessment on whether or not significant impacts would occur. Each PTHP would simply need to include a statement that the PTHP area has been surveyed in accordance with the current FPRs (CCR § 1092.09(f)). An update of the records check may be necessary since a "current archaeological records check" is defined as one which was conducted within five years (CCR § 895.1).

Option 3 – Partial Deferral. Another option would be to complete a records check, pre-field research, and other background study for the entire PTEIR area but deferring actual survey work to the time of PTHP submittal. If multiple PTHPs are envisioned this option might present some advantages to avoid repeating such work. Another option in partial deferral would be to complete background and pre-field research for the entire property but an on-the-ground field survey only for the first five years of PTHP areas. The PTEIR would need to include a CAA and a statement that archaeological surveys and impact evaluations would be completed at a later date for all subsequent PTHP submittals.

- Biological Resources – Surveys of the entire PTEIR area may be impractical. Particular sensitive species, because of their sporadic distribution, transient behavior or scarcity of suitable habitat, may warrant discussion and analysis at a programmatic level and be addressed more specifically at the time of PTHP development. The PTEIR should address the biological resources that may be impacted and describe the standard mitigations, avoidance measures, survey protocols or consultation requirements that will be required in PTHPs. Mitigation for species encountered as a result of project level surveys may include requirements to abide by consultation recommendations.

- Minor Watersheds within PTEIR area – Extremely small watersheds or minor portions of larger watersheds within a PTEIR area, with a low probability of being entered during the term of the PTEIR, may not warrant detailed analysis. Such analysis may be deferred until a PTHP is prepared that includes such areas; however, the PTEIR should describe how PTHPs will address minor watersheds when they are encountered. Management activities in minor watersheds not covered in the PTEIR may be carried out under a THP.

- Unique habitats/environments – Some soils, vegetation types, or habitats may be extremely limited within a PTEIR area and may 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. These unique situations should be described in a general way in the PTEIR but should not receive specific analysis or the development of specific mitigation until the preparation of a PTHP[7].

CAL FIRE, 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 that may arise during PTHP operations are less than significant or can be mitigated to a level of less than significant through the application of mitigations developed in the PTEIR.

The PTEIR may approach the analytical task in one of three ways (or any combination):

- **Site Specific Analysis** - A detailed assessment of the resource at a site-specific level. Where the PTEIR provides site-specific information, analysis and mitigation, little or no additional analysis or justification will be necessary to support a PTHP. This might be most applicable to limited, but highly sensitive resources such as old growth stands, threatened or impaired watersheds, or known locations of listed species or their habitat.
- **Programmatic Analysis** - A programmatic level assessment of the resource that identifies standard mitigations which may be applied when a particular resource is encountered. A PTHP would need to include the necessary site-specific studies 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.
- **Deferred Analysis** - A limited analysis of potentially affected resources with a commitment to consultation, resource inventory, avoidance and/or analysis at the time of PTHP preparation. This approach would be most appropriate for extremely rare occurrences or where each occurrence requires consultation with experts, responsible or trustee agencies, customized inventory, analysis and mitigation that would be too speculative, difficult or costly to address programmatically. Examples may include timber operations or road construction on unstable areas, unique habitats or timber inventory for multi-ownership PTEIRs[8]. So that future PTHPs would not be found to be out of scope in such

[7] The PTEIR will need to describe, in a general way, how these unique habitats or environments will be addressed in subsequent PTHPs so that "out of scope" issues will not arise. This may include procedures to identify these areas during PTHP preparation, commitments to avoid certain operations or treatments in such areas, consultation requirements with reviewing agencies and specific mitigations to be applied where necessary. [see discussion of "**Guidance on Avoiding Out-of-Scope Issues"** and **"PTHPs that are "out of scope" of the PTEIR"]**

[8] For example, road construction in unstable areas may require sight specific design considerations that cannot be developed in the PTEIR. The PTEIR may defer consideration and analysis of unstable areas until PTHP planning commences; however, the PTEIR must state how slope stability issues are to be addressed when unstable areas are encountered in planning a PTHP road. Mitigation in the PTEIR might require CEG expertise in road design and consultation with CGS. During PTHP development the CEG may recommend, and CGS may concur with, realigning the road to avoid impacts or designing the road in a manner that reduces the potential for road failure. Either approach, avoidance or design, could be

instances, the PTEIR must commit to avoiding such areas or accepting lead, responsible and/or trustee agency consultation recommendations to lessen impacts to less than significant levels. [see discussion of "**Guidance on Avoiding Out-of-Scope Issues"** and **"PTHPs that are "out of scope" of the PTEIR**

Cumulative Effects Analysis

PTHPs are not required to contain the Cumulative Effects Analysis required in typical THPs (THP Section IV: Technical Rule Addendum II) (CCR § 1092.09) and instead rely upon the cumulative effects analysis found in the PTEIR (CCR § 1092(c), 1092.01(b), 1092.01(c)). Mitigations developed in the PTEIR to address cumulative effects are implemented in the PTHP through the PTHP Checklist (see **PTHP Checklist Development**, below). The cumulative effects analysis in the PTEIR is largely guided by CEQA Guidelines §15130. In addition, the PTEIR preparer may wish to consider the cumulative effects assessment methodologies found in the Board of Forestry Technical Rule Addendum II (CCR §§ 912.9, 932.9, 952.9).

A periodic update to the cumulative effects analysis will be necessary to reflect changes (past, present and reasonably foreseeable projects) that have been approved since the PTEIR was certified. This may be accomplished through specific mitigations in the PTEIR to ensure that cumulative effects do not occur that are required in the Mitigation Monitoring and Reporting Plan (see **Mitigation Monitoring and Reporting Plan** (MMRP) discussion) and documented prior to PTHP approval in the PTHP Checklist. Depending on the level of activity anticipated the MMRP may require updates to occur at regular intervals (e.g., annually, decadally) or after significant activity occurs.

CEQA Alternatives Analysis

The CEQA Guidelines discuss the alternatives analysis that is required in EIRs (CCR § 15126.6). CAL FIRE expects that PTEIRs will contain an analysis of alternatives to the proposed project (not to be confused with "alternate standards" in the PTEIR rules) that meets the following general requirements:

- Alternatives to the proposed project considered for inclusion in the PTEIR may be derived from any source including public and agency comments submitted to CAL FIRE during scoping;
- There shall be a range of reasonable alternatives to the proposed project, or proposed project's location[9], which would feasibly attain most of the proposed project's objectives and would avoid or lessen any of the proposed project's potentially significant effects (CCR § 15126.6(a));

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considered changes in the project, rather than mitigation, that lessen impacts to a level of less than significant.

[9] An alternative project location may include developing the PTEIR for an entirely different location or changing the PTEIR area "footprint" by restricting those areas or ownerships that are covered by the PTEIR. The selection of alternate project locations is governed by a "rule of reason" and other locations need only be considered where potentially significant project impacts would be avoided or substantially lessened (CCR 15126.6(f)).

- Feasible alternatives may include alternatives that are more costly to implement or impede to some degree achieving the proposed project's objectives (CCR § 15126.6(b));
- Each alternative to the proposed project chosen for analysis in the PTEIR should include a brief rationale for its selection (CCR § 15126.6(c);
- Alternatives that were considered for analysis but rejected should be described briefly and the reason(s) for rejection explained (CCR § 15126.6(c)). Rejection may be warranted where the alternative: fails to mitigate any of the proposed project's potentially significant effects; would not be feasible to implement; or, does not meet any of the project proponent's goals or objectives as described in the proposed project's project description[10].

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 (CCR § 15126.6(e)). This may include:[11]
    - continuation of management, THP-by-THP, with the minimum operational standards under the FPRs, or;
    - continuing management, THP-by-THP, where operational standards routinely applied have historically exceed the minimums under the FPRs, or;
    - no management, where there has been no recent history of active management.
- A minimum of **two additional alternatives**[12] 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 and objectives (CCR § 15126.6(a)). Examples might include: reducing or eliminating evenaged management; changing the project boundaries to avoid certain sensitive environments or watersheds; a lengthened rotation age or cutting cycle; or, a change in management emphasis.

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 any of the project goals are not feasible and should not be analyzed (CCR § 15126.6(f)); however, alternatives that meet many of the proponents goals and objectives are worthy of consideration. This demonstrates the importance in clearly articulating the management goals to be achieved under the PTEIR. On the other hand, the project goals and objectives should not be so restrictive that all prospective project alternatives would be infeasible.

[10] See the discussion of goals and objectives in the **Project Description** section.
[11] See discussion on current management in the Environmental Setting section.
[12] CEQA requires an analysis of the Proposed Project and No Project Alternatives as well as a range of alternatives that provide a "reasoned choice" and that would avoid or substantially lessen any of the significant project effects (CCR §15126.6(f)).

Alternate Standards[13]

Timber operations under a PTHP must comply with the operational (specific prescriptive) standards of the FPRs (CCR §§ 1092(b)); however, the PTEIR/PTHP process authorizes the development of alternate standards, unless specifically prohibited under CCR §897(f)[14]. PTHPs utilizing alternate standards are in compliance with the operational standards of the FPRs where the analysis in the PTEIR, certified by the Director, is sufficient in demonstrating that any resulting impacts would be less than significant (CCR §15382) and where the alternate standards have been found to provide equal or better protection than the standard rule. A standard operational rule, having undergone a functionally equivalent CEQA analysis during the Board rule making process, is considered to result in a less than significant impact to the resource it is intended to protect. Similarly, an alternate standard proposed in a PTEIR must be supported by an analysis that demonstrates a less than significant effect as well. Therefore, the CEQA analysis in a PTEIR serves to demonstrate both that the alternate standard results in a less than significant effect and that it is equivalent to, if not better than, the standard rule. In determining the adequacy of an alternate standard as compared with the standard rule the analysis should refrain from focusing on the numbers (e.g., the width of the buffer, the diameter of the culvert, the number of trees) but instead must determine, "*What is the resource that is to be protected by the standard rule and is it being protected under the alternative?*"

A PTEIR preparer may propose alternate standards for any number of the operational standards. Once certified, the PTEIR's alternate standards may be relied upon in future PTHPs by mere reference without further explanation or justification (CCR §1092(c)). In the event that the standard rule is changed or replaced by the Board, the plan submitter would need to explain, and CAL FIRE would need to consider, whether the alternate standard still provided equal or better protection than the standard rule on subsequent PTHPs[15]. Where a PTEIR is "silent" on a particular standard, future PTHPs must conform to the standard operational rule[16] and any subsequent changes in the rule, unless the rule in effect at the time the PTHP is submitted allows for an alternative to be explained and justified in the PTHP (CCR §1092.09(o)).

Alternate standards may be developed to achieve a number of purposes, including:

- <u>Provide an Alternative to a Current Rule</u> - Site-specific characteristics, the landowner's management objectives or unique circumstances may provide the basis for suggesting alternate operational standards that would provide equal or better protection of the environment in a more cost effective or efficient manner.

[13] Some PTEIR submitters 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.
[14] CCR § 897(f) specifically prohibits prescribing or approving alternative practices (alternate standards) in lieu of certain specific rules.
[15] Memo from the Board of Forestry and Fire Protection dated February 8, 2007 (See APPENDIX D).
[16] PRC 4583 requires all THPs (and PTHPs) to be in conformance with the standards and rules which are in effect at the time the plan becomes effective. Where a certified PTEIR contains an analysis that demonstrates the alternate standards provide equal or better protection than the rules which are in effect and that implementation will result in impacts that are less than significant the PTHP ***<u>is</u>*** in conformance with the standards and rules.

- Provide an Alternative to a Future Rule – A PTEIR may provide an analysis of an alternative approach to addressing an environmental problem in anticipation of a future rule change by the Board The new rule might arise because of changes in the environment (i.e., changed circumstances), new information (i.e., research results) or changes in regulation (i.e., species listing). The alternative would anticipate potential impacts and address them, *a priori*, in an alternate standard that provides equal or better protection than an expected new standard rule.
- Provide Regulatory Certainty – The analysis in a PTEIR may be sufficient in demonstrating that a current rule (or multiple current rules) provides a degree of protection to the resource such that complying with future rule changes would be unnecessary to protect the environment. In the event that the Board adopts a new rule, the current rule would be come an alternate standard[17].
- Provide an Alternative Resource-Based Approach – A forest management plan, suite of "best management practices" or other operational plan may provide the basis for replacing multiple prescriptive standard rules with performance based rules targeted at protecting a particular resource or several resources (see "Resource-Based Analysis", below).

With each change to the rules by the Board the PTHP submitter and the Department will need to determine whether the alternate practice (e.g., alternate to a current rule, alternate to a future rule, the "old rule", or plan) provides equal or better protection than the new rule. Where the Board's new rule's purpose is to address a statewide or forest district-wide impact that was already found to be less than significant as mitigated in the PTEIR it is likely that the PTEIR will be found sufficient in protecting the resource. However, where the new rule is attempting to address new information (research results, new species listing, change in conditions) that was not, or could not have been, known at the time the PTEIR was certified, then the PTEIR may be found deficient in providing protection that is equal to or better than the Board's new rule. In such a case a PTHP may be found to be out of scope.

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, a combination of the two.

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

[17] A PTEIR does not automatically "lock in" the rules that are in effect at the time the PTEIR is certified in contrast to a Nonindustrial Timber Management Plan (NTMP). The NTMP rule "lock in" is authorized in the FPA (PRC § 4593.8 and 4894(h)) and therefore provides for an exception to the requirements of PRC § 4583. PTEIRs are authorized under the FPRs, not the FPA; therefore, PTHPs must comply with the provisions of PRC § 4583 (the current rules) unless there is a certified PTEIR that specifically analyzes an "old rule" or an alternative to a current rule and finds its implementation would have a less than significant effect on the environment.

rules or the regulations of other agencies[18]. 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 significant adverse impacts from applying the alternate standard;
- The treatment(s) proposed cannot result in significant adverse impacts from applying the alternate standard;
- The overall management of the ownership(s) subject to the PTEIR cannot result in significant adverse impacts from applying the alternate standard;
- The provisions of other permits (HCP, NCCP, SMARA, etc.) cannot result in significant adverse impacts from applying the alternate standard.

The rule-by-rule approach is limited 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.

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 (CCR §15370) - 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 on future

[18] A PTEIR may provide an environmental analysis that meets the permitting requirements of other responsible agencies (DFG, RWQCB, etc.) and where those agencies regulations allow alternatives to their standard requirements may provide the necessary justification. [see discussion "**Coordination with other permits"**].

development. The resource-based analysis approach focuses, not on the numbers (e.g., culvert size or buffer width) but on the protection afforded the resource overall (e.g., maintaining water quality, protecting 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 in PTEIRs

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, or as otherwise provided in Article 6.8, Subchapter 7*" (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. One important assumption inherent by the estimate of LTSY is that a balanced distribution in age classes across productivity levels has been met for the assessment area. Planning horizons of less than 100 years may be appropriate where the quantitative analysis of MSP indicates that the current arrangement of age-class distributions and productivity levels will reach a balanced state in a shorter period of time.

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, in the short and long term, and cumulatively. 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. Typically, the following general standards and considerations would 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 (see discussion on **Mitigation Monitoring and Reporting Plans**);
- 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.

For purposes of the sustained timber production portion of a PTEIR, any deviation from the average harvesting projections in any ten-year period which exceeds ten percent, including a deviation caused by changes of ownership and catastrophic events, may be considered a substantial deviation and subsequent PTHPs may be found to be out of scope of the analysis in the PTEIR. New or revised projections may require amending the PTEIR (see discussion on **Amending PTEIRs**).

PTEIR Term (effective period)

The term, or effective period, of the various environmental documents is not specified in CEQA. Generally, CEQA documents remain valid until:

- Environmental circumstances change to the point that the assumptions, analysis and/or conclusions in the document are no longer valid;
- The studies, supporting evidence or analysis supporting the lead agency's conclusions either expire or are no longer accurate;
- Other permits approved pursuant to the CEQA document expire.

A PTEIR is effective until environmental conditions substantially change or new significant effects are identified (CCR §1092.28(c)) and the PTEIR no longer achieves

the resource protection goals of the FPA (CCR §1092.02). It is CAL FIRE's responsibility as lead agency to determine that the PTEIR is no longer capable of providing the analysis necessary to support the approval of PTHPs. The landowner can reach this determination independently and no longer submit PTHPs tiered to the PTEIR, effectively abandoning the document, and revert to submitting THPs. Alternatively, the landowner may submit new or updated information, analysis and mitigations for consideration by CAL FIRE in amending or supplementing the PTIER (CCR §1092.28). This new information may require the reopening of comment on the PTEIR (see **Amending 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.

Amending PTEIRs

In the event CAL FIRE 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. CAL FIRE'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 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, 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" (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 in the cost of THP preparation when their ownership is included within a PTEIR area. This may include, but is not limited to, PTEIRs for the purpose of:

- Government encouraging communities to implement a fuel management plan through a cost effective means;
- Groups of landowners sharing the costs or seeking outside funding to develop a PTEIR that meets their collective goal(s).
- Encouraging the management of a watershed, or multiple watersheds, with numerous owners, having similar characteristics, management constraints and mitigations.

Any individual landowners within an area covered by a multi-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. PTHP submitters are not require to obtain the approval of the PTEIR preparer or other "covered" landowners; however, the PTHP must be consistent with the goals and objects stated in the PTEIR and must be in scope. It should be noted however, that the actions of one or a few landowners may affect all the owners within the PTEIR area if their action: results in a substantial change to the Environmental Setting; invalidates MSP analysis; crosses a cumulative effects threshold; or fails in achieving the project goals and objectives. The preparers of multi-ownership PTEIRs may want to consider methods to "meter" PTHP submittals to ensure that priorities are maintained and PTEIR benefits distributed equitably between the ownerships covered by the PTEIR.

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 (within the scope) by the program EIR (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 (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 (CCR §1092.01(c). The completed checklist must contain a listing of the alternate practices that deviate from the standard operational rules as presented and analyzed in the PTEIR (CCR §1092.09(n)). Specifically, the checklist should be designed to 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 than the standard rule;
- All activities resulting in the potential for significant effects are identified;
- The mitigations found in the PTEIR are implemented in a PTHP where appropriate;
- That programmatic studies, surveys and adaptive management provisions identified in the PTIER are conducted as required (see **Mitigation Monitoring and Reporting Plan**, below).

Coordination with other permits

Landowners who 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. And, in pursuing other permits the landowner may have found that the PTEIR/PTHP process provides the means to efficiently implement the required plans. These other permits and plans 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 Lake and 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 may require the development of a joint CEQA/NEPA document in compliance with 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 (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:

- Recreational facility operation and development.
- Green space management in approved subdivisions or golf courses.
- Community wildland fuel management plans (see **Multiple Ownerships,** above).

CAL FIRE is always the lead agency for certifying PTEIRs (CCR § 1092.02). 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, focusing on timber management, while tiering to the lead agency's CEQA document for the project as a whole.

Guidance on Avoiding Out-of-Scope Issues

To minimize out of scope issues in PTHPs, PTEIRs should be written to:

- Anticipate site specific situations – In the Project Description and Environmental Setting, encompass as broad a set of proposed activities, sites and situations as feasible to minimize activities that are out-of-scope. This may be difficult in highly heterogeneous settings or where a variety of treatments are proposed. It will require the PTEIR preparer to balance the extent of coverage achievable under the PTEIR with the cost of PTEIR development.
- Design flexible mitigation – Avoid committing to one-size-fits-all mitigation where flexibility is preferable. Develop mitigation where feasible that provides

flexibility to accommodate unforeseen or rarely encountered situations while still providing clarity and enforceability. Consider mitigations that are performance based rather than prescriptive.

- Accommodate consultation recommendations - Mitigation measures may include requirements to consult with lead, responsible and trustee agencies and agreeing to abide by their recommended mitigation measures. For instance, the PTEIR may require protocol surveys for listed species, consultation with the responsible agency if listed species are detected and requirements to implement the agency's recommendations[19].

Despite the best efforts of the PTEIR preparer, CAL FIRE and other agencies, out of scope PTHPs may occasionally occur due to the following:

- Practices or operations are proposed in the PTHP that were not considered in the PTEIR project description;
- Environmental setting and habitats will be affected by PTHP operations that were not described or analyzed in the PTEIR;
- The PTHP proposes operations that are contrary to the PTEIR's stated goals and objectives (commercial harvesting where fuel treatment was the PTEIR goal);
- The PTHP proposes operations that are not within the PTEIR area (new ownerships, outside watershed or assessment area boundaries);
- The Board makes a rule change requiring new standards that were not considered in the PTEIR;
- Because of changed circumstances (species listings, wildfires, landslides, floods, drought, pest outbreaks);
- New information becomes available (research, studies) that indicates what was once thought to be a less than significant effect is now a significant effect requiring mitigation.

Mitigation Monitoring and Reporting Plans

PRC §21081.6 and CCR §15097 require the preparation and adoption by the lead agency of a Mitigation Monitoring and Reporting Plan (MMRP) at the time it makes its CEQA findings for an EIR, or PTEIR. MMRPs are intended to ensure that the mitigations developed in the PTEIR to avoid or substantially lessen potentially significant environmental effects are implemented in accordance with the PTEIR. The PTEIR Checklist serves to ensure that mitigations developed during the PTEIR process are recognized and implemented at the project level. However, the PTEIR may have identified measures that are necessary for mitigating effects that are implemented programmatically rather than project-by-project. This might include: surveys and studies to collect baseline information or support adaptive management; monitoring the effectiveness of mitigations or practices; periodic updating of the cumulative effects

[19] CCR §15126.4(a)(1)(B) states that mitigation formulation should not be deferred. However, performance standards can be described in the PTEIR that require project level actions to mitigate potential PTHP impacts. The mitigation in the PTEIR must require specific actions of the PTHP submitter, the responsible or trustee agencies and CAL FIRE that are unambiguous and enforceable.

analysis; timber inventories to augment MSP/LTSY requirements; or, watershed wide or regional surveys to support effects determinations. The MMRP should identify, at a minimum, the measures to be implemented, the party responsible for implementation, the party responsible for ensuring compliance, and the required date and/or time for completion. The PTEIR Checklist should refer to the MMRP where appropriate to ensure that PTHPs are approved in compliance with all programmatic mitigation requirements (see **PTHP Checklist Development**, above).

REVIEW OF PTEIRS

CAL FIRE's Review

CAL FIRE is required to determine the adequacy of a PTEIR similar to any other EIR, under CEQA. In addition, a PTEIR's adequacy is to be determined under the FPRs. The following rule sections specifically address a PTEIRs adequacy under the FPRs:

- CCR § 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 on the environment as defined in the State CEQA Guidelines (14 CCR 15382) and other applicable laws."
- CCR § 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."
- CCR § 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."
- CCR § 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. …"
- CCR § 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."
- CCR § 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."

Other Agency and Public Review

PTEIRs, like other CEQA documents, are subject to the review and comment of other agencies and the public. Once a draft PTEIR has been accepted by CAL FIRE as sufficient for public review it is filed with the State Clearinghouse, in accordance with CCR §15087 for a minimum 45 day public review. Consultation, in accordance with CCR §15086, with responsible or trustee agencies, consists of written comments submitted with regard to the adequacy of the draft PTEIR in disclosing, analyzing and mitigating the project's effects. Similarly, the public is invited to submit comment in writing, or, if determined necessary, orally at one or more public hearings. All comments received are responded to in a final PTEIR.

CAL FIRE's Approval

CAL FIRE's preparation of a final PTEIR, certification of the PTEIR, issuance of findings and project approval follows the procedures found in CCR §§ 15089 through 15092. In some cases approvals of other non-federal permits and plans necessary for implementation of the PTEIR cannot occur until the PTEIR has been certified by CAL FIRE as lead agency.

PTHP PROCESS

Substantial Differences between PTHPs and THPs

CCR §1092(a) states that the abbreviation "PTHP" may be substituted for "THP", Timber Harvesting Plan" and "plan" throughout the FPRs, with the exception of §§1032 through 1042, the article in the FPRs addressing the filing and review of THPs. Because PTHPs tier to a PTEIR that has already undergone full environmental review and certification under CEQA the FPRs provide another review process for PTHPs (CCR 1092.01(b)). As such, many of the PTHP review processes are handled differently than for THPs. See **Appendix A** for a rule-by-rule comparison of the review process for THPs versus PTHPs. In summary, the primary differences are:

- No Review Team – however, consultation with responsible and trustee agencies still occurs and their comments considered prior to PTHP approval
- No adoption of suggested alternatives, recommendations or mitigation by public agencies – but this input may be used by CAL FIRE in determining if the PTHP is within the scope of the analysis in the PTEIR
- No Non-Concurrences – however, there is a head of agency appeal process that may occur after a PTHP is approved
- Preharvest inspection held, if necessary, to determine consistency w/ PTEIR and Board Rules – PHIs may be necessary less frequently because PTHPs will rely on standard mitigations developed in the PTEIR in consultation with agencies

- Written comments by agencies are to focus on consistency with the PTEIR, the Act, the Rules and other laws – PTHPS that are out of compliance with the PTEIR, Act or Rules would be out of scope and could not be approved
- No second review – PTHP approval timelines would remain consistent with FPA and FPRs.

Contents of a PTHP

The contents of a PTHP (CCR §1092.09) differ significantly from THP contents (CCR §1034) as outlined in the Program Timber Harvesting Plan form RM-64 (2-05)[20]. Of particular importance is the requirement that the PTHP be "linked" to a particular PTEIR which has been certified by the Director ((CCR 1092.09(a)). The PTHP must also indicate whether there are any practices that deviate from the standard operational rules that were reviewed in the PTEIR (RM-64; Question 15). Those practices must be listed on the PTEIR Checklist that accompanies the PTHP (CCR §1092.09(n)). In addition, the PTHP must provide explanation and justification for any other operational practices that deviate from the standard rules which were not reviewed in the PTEIR but are allowed in the FPRs (RM-64; Question 16)(CCR §1092.09(o)). The PTHP does not contain a cumulative effects analysis but instead relies upon the PTEIR cumulative effects analysis and the mitigations developed to lessen cumulative effects found in the PTEIR checklist (CCR §1092.01(c)).

Director's Review of PTHP

The Director's review of a PTHP (CCR §1090.20(a)) differs from a THP by requiring a determination that the:

- PTHP is in compliance with the PTEIR and PTHP rules (14 CCR Article 6.8);
- that the activities proposed under the PTHP are within the scope of the analysis conducted in the PTEIR; and
- that the PTEIR provides the disclosure, impacts analysis and mitigation and avoidance measures required under CEQA.

Determining if PTHP is "within scope" of the PTEIR

In reviewing a PTHP the Director shall determine if one or more of the following conditions exist (CCR §1090.20(b)):

- Activities proposed in the PTHP could result in significant environmental impacts not considered in the PTEIR;
- Substantial changes have occurred leading to significant environmental impacts not covered in PTEIR;
- New information becomes available regarding impacts or mitigation showing:
    - The PTHP would have impacts not disclosed in the PTEIR;

[20] See Program Timber Harvesting Plan form RM-64 in Appendix B.

- Impacts would be substantially more intensive/extensive than shown in PTEIR;
- Mitigations and/or alternatives found to be infeasible at the time the PTEIR was certified are now found to be feasible;
- New feasible mitigations or alternatives not previously considered are identified.

Occasionally activities will be proposed in a PTHP that were not considered in the development of the PTEIR. In such instances the PTHP may be written to address issues not covered in the PTEIR by:

- Relying on any of the standard operational rules (which have already been through CEQA in the Board rulemaking process)
- Explanation and justification of any operational practices which are allowed under the standard rules with explanation and justification (1092.09(o));

Mitigation measures, alternative practices and review agency recommendations intended to address potentially significant effects not considered in the PTEIR cannot be included in a PTHP. PTHPs are not subject to review by the interdisciplinary review team and therefore "new" impacts and the means to address those impacts would not receive the levels of disclosure and analysis required by CEQA. PTHPs that would result in environmental impacts requiring mitigation not considered in the PTEIR are out of scope of the PTEIR and should not be approved (see **Guidance on Avoiding Out-of-Scope Issues)**

PTHPs that are "out of scope" of the PTEIR

PTHP submitters have the following options when a PTHP is out of scope (CCR § 1092.01(d)):

- The PTHP may be modified to be within the scope of the PTEIR;
- The PTHP may be withdrawn and a THP submitted; or,
- An addendum, supplement or subsequent PTEIR (CCR §§15162 to 15164) may be prepared and certified by CAL FIRE to address out of scope issues and a new PTHP submitted.

CAL FIRE cannot approve a PTHP where the submitters and reviewing agencies have proposed "new" mitigation to address "out of scope" issues identified in preparing or reviewing the PTHP. Potentially significant effects and the mitigation measures relied upon to address those effects should have been analyzed in the PTEIR and incorporated into the PTHP checklist so as to be available for selection where necessary in preparing the PTHP. However, CAL FIRE may approve a PTHP where the intent of proposed "new" mitigation has been achieved by changing the PTHP to avoid the potential effect. Widening buffers, excluding sensitive areas, adjusting time of operations, reducing harvest levels, changing the silviculture, relocating proposed roads or skid trails and other such measures to avoid potentially significant impacts may be considered changes to the project description (rather than mitigation measures) that bring an out of scope PTHP into the scope of analysis in the PTEIR.

APPENDICES

	Harvesting Plan Submission			
§1032.10	Request for Information on Domestic Water Supplies	**§1092.07**	Request for Information on Domestic Water Supplies	Substantially the same
§1033	Filing Date	**§1092.08**	Filing Date	Identical
§1034	Contents of Plan	**§1092.09**	PTHP Contents	Substantial differences reflected in
§1034.2	Professional Judgment	**§1092.10**	PTHP Professional Judgment	Substitutes reaching agreement du
§1035	Plan Submitter Responsibility	**§1092.11**	PTHP Submitter Responsibility	Substantially the same
§1035.1	Registered Professional Forester Responsibility	**§1092.12**	Registered Professional Forester Responsibility	Substantially the same
§1035.2	Interaction Between RPF and LTO	**§1092.13**	Interaction Between RPF and LTO on the PTHP	Deletes meeting to discuss protecti however, on site meeting still requir 969.2(b).
§1035.3	Licensed Timber Operator Responsibility	**§1092.14**	Licensed Timber Operator Responsibility	Substantially the same
§1035.4	Notification of Commencement of Operations	**§1092.15**	Notification of Commencement of Operations	Substantially the same
§1036	Deviations			No equivalent section
§1036.1	Murrelet Protection before Notice of Completion			No equivalent section; Measures fo but required pursuant to 14 CCR 9
§1037	THP Preharvest Inspection-Filing Return	**§1092.16**	PTHP Review Inspection-Filing Return	Deletes reference to RMP; requires
§1037.1	Notice of Filing	**§1092.17**	Notice of PTHP Filing	Substantially the same
§1037.3	Agency and Public Review	**§1092.18**	Agency and Public Review of the PTHP	Comments to address PTHP consis but also required pursuant to 14 C
§1037.4	Director's Determination	**§1092.19**	Time Periods for Review of the PTHP	Respond only to issue of conforma deletes reference to considering re deletes reference to interdisciplinar
§1037.5	Review Teams Established			No equivalent section; deletes IRT meetings, non-concurrence, mitigat
		§1092.20	Director's Guidance for Review of PTHP	Provides direction in review of PTH
		§1092.21	Special Conditions Requiring Disapproval of a PTHP	Similar to CCR §898.2
§1037.6	Nonconformance of Plan	**§1092.22**	Nonconformance of PTHP	Similar;; Determination that the PT
§1037.7	Conformance of Plan	**§1092.23**	Conformance of PTHP	Similar; Determination that the PTH
§1037.8	Notice of Conformance	**§1092.24**	Notice of Conformance of the PTHP	Within 10 days transmit the NOC; r consistency questions; requires spe of PTEIR and the PTEIR meeting th
§1037.9	Public Inspection	**§1092.25**	Public Inspection	Substantially the same
1037.10	Review Period Waiver			No waiver; may develop similar in F
1037.11	Notice of Waiver			No waiver; may develop similar in F
§1038	Exemption			1038 exemptions may be submitted
§1038.1	Compliance with Act and Rules			1038 exemptions may be submitted
§1038.2	Exemption Form			1038 exemptions may be submitted
§1038.3	Agency Exemptions			1038.3 exemptions may be submitt
§1039	Amendment	**§1092.26**	Amendment	Substantially the same as 895.1 "S
§1039.1	Effective Period of the Plan	**§1092.28**	Effective Period of PTHP and PTEIR	Adds conditions to determine when
§1040	Report Minor Deviations	**§1092.27**	Report Minor Deviations	Substantially the same
§1041	Limitations	**§1092.01(e)**	PTEIR and PTHP	Substantially the same; moved to n
§1042	Change of Ownership	**§1092.29**	Change of Ownership	Substantially the same

APPENDIX B: STEPS IN CEQA PROCESS FOR PTEIRS

Pre-Application Consultation (14 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 (14 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 (14 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 (14 CCR § 15084)
An administrative draft PTEIR must be prepared for review by CAL FIRE. The draft PTEIR must reflect CAL FIRE's independent judgment prior to it release for public comment.

Formal Consultation and Public Comment (14 CCR §§ 15086/15087)
The draft PTEIR must undergo a minimum of 45 day public review during which the public and public agencies 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 (14 CCR § 15088)
Following the close of public comment CAL FIRE must respond, in writing, to all comments received.

Consideration of Re-Circulation (14 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 the draft PTEIR for additional comment.

Final PTEIR (14 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 (14 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.

APPENDIX C PROGRAM TIMBER HARVESTING PLAN FORM

FOR ADMIN. USE ONLY
Amendments-date & S or M

1. _____ 7. _____
2. _____ 8.
3. _____ 9. _____
4. _____ 10. _____
5. _____ 11. _____
6. _____ 12. _____

PROGRAM TIMBER HARVESTING PLAN

STATE OF CALIFORNIA
DEPARTMENT OF FORESTRY
AND FIRE PROTECTION
RM-64 (2-05)

Filed in accordance with
PROGRAM TIMBERLAND ENVIRONMENTAL
IMPACT REPORT
No. _____

Located at _____

_____

FOR ADMIN. USE ONLY

THP No. _____

Dates Rec'd _____

Date Filed _____

Date Approved _____

Date Expires _____

Extensions 1) [ ] 2) [ ]

This Program Timber Harvesting Plan (PTHP) form, when properly completed, is designed to comply with the Forest Practice Act (FPA), Board of Forestry rules, and the above listed Program Timberland Environmental Impact Report (PTEIR). See separate instructions for information on completing this form. NOTE: The form must be printed legibly in ink or typewritten. The PTHP is composed of this form, required maps, completed checklist, required verifying documents and a confidential archaeological section, if required. If more space is necessary to answer a question, continue the answer in an attachment to the PTHP form. If writing an electronic version, insert additional space for your answer. Please distinguish answers from questions by *font change*, **bold** or <u>underline</u>.

This PTHP conforms to my/our plan and upon approval; I/we agree to conduct harvesting in accordance therewith. Consent is hereby given to the Director of Forestry and Fire Protection, and his or her agents and employees, to enter the premises to inspect timber operations for compliance with the Forest Practice Act , Forest Practice Rules and the PTEIR.

1. TIMBER OWNER(S) OF RECORD: Name

Address

City _____ State _____ Zip _____ Phone

Signature _____ Date

NOTE: The timber owner is responsible for payment of a yield tax. Timber Yield Tax information may be obtained at the **Timber Tax Section, MIC: 60, State Board of Equalization, P.O. Box 942879, Sacramento, California 94279-0060; phone 1-800-400-7115; BOE Web Page at http:// www.boe.ca.gov.**

2. TIMBERLAND OWNER(S) OF RECORD: Name

Address

City _____ State _____ Zip _____ Phone

Signature _____ Date

3. LICENSED TIMBER OPERATOR(S): Name _____Lic. No.
(If unknown, so state. You must notify CDF of LTO prior to start of timber operations.)

Address

City _____ State _____ Zip _____ Phone

Signature _____ Date

Note: The RPF must provide verification that the LTO has been briefed by the RPF or his/her supervised designee on the contents and operational requirements of the PTHP prior to the start of timber operations. Ref. Title 14 CCR 1092.09(k).

APPENDIX C PROGRAM TIMBER HARVESTING PLAN FORM

4. PLAN SUBMITTER(S): Name

Address

City _____ State _____ Zip _____ Phone
(**Submitter must be from 1, 2, or 3 above. He/she must sign below. Ref. Title 14 CCR 1092.04(a).)**

Signature _____ Date

5. a. List person to contact on-site who is responsible for the conduct of the operation. If unknown, name must be provided for inclusion in the PTHP prior to start of timber operations.

Name

Address

City _____ State _____ Zip _____ Phone

b. [ ] Yes [ ] No Will the timber operator be employed for the construction and maintenance of roads and landings during conduct of timber operations? If no, who is responsible?

c. Who is responsible for erosion control maintenance after timber operations have ceased and until certification of the Work Completion Report? If not the LTO, then a written agreement must be provided per 14 CCR 1050(c).

6. a. Expected date of commencement of timber operations:

[ ] date of PTHP conformance, or [ ] _____(date)

b. Expected date of completion of timber operations:

[ ] 3 years from date of PTHP conformance, or [ ] _____(date)

7. Location of the timber operation by legal description:

Base and Meridian: [ ] Mount Diablo [ ] Humboldt [ ] San Bernardino

Section	Township	Range	Acreage	County	Assessor's Parcel Number*
_____	_____	_____	_____	_____	
_____	_____	_____	_____	_____	
_____	_____	_____	_____	_____	

TOTAL ACREAGE _____ (Logging Area Only) * Optional

Planning Watershed(s): CALWATER Version, Identification Number, and Name:

U.S. Geological Survey (USGS) Quadrangle name(s) and date(s):

Attach any maps as required by 1092.09 and PTEIR at the end of the form.

APPENDIX C PROGRAM TIMBER HARVESTING PLAN FORM

8. a. Check the Silvicultural methods or treatments allowed by the rules and PTEIR that are to be applied under this PTHP If more than one method or treatment will be used show boundaries on map and list approximate acreage for each.

[ ] Clearcutting _____ ac. [ ] Shelterwood Prep. Step _____ ac. [ ] Seed Tree Seed Step _____ ac.
[ ] Shelterwood Seed Step _____ ac. [ ] Seed Tree Removal Step _____ ac.
[ ] Shelterwood Removal Step _____ ac.

[ ] Selection _____ ac. [ ] Group Selection _____ ac. [ ] Transition _____ ac.

[ ] Commercial Thinning _____ ac. [ ] Road Right of Way _____ ac. [ ] Sanitation Salvage _____ ac.

[ ] Special Treatment Area _____ ac. [ ] Rehab. of Understocked Area _____ ac. [ ] Fuelbreak _____ ac.

[ ] Variable Retention _____ ac.

[ ] Alternative _____ac. [ ] Conversion _____ac. [ ] Non Timberland Area _____ ac.

Total acreage _____ ac. (Explain if total is different from that listed in 7.)

b. If Selection, Group Selection, Commercial Thinning, Sanitation Salvage or Alternative methods are selected the post harvest stocking levels (differentiated by site if applicable) must be stated. Note mapping requirements of 1092.09(l)(2).

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9. Indicate type of yarding system and equipment to be used:

	GROUND BASED*		CABLE		SPECIAL
a.	[ ] Tractor, including end/long lining	d.	[ ] Cable, ground lead	g.	[ ] Animal
b.	[ ] Rubber tired skidder, Forwarder	e.	[ ] Cable, high lead	h.	[ ] Helicopter or balloon
c.	[ ] Feller buncher	f.	[ ] Cable, Skyline	i.	[ ] Other (Explain)

* All tractor operations restrictions apply to ground based equipment.

10. Erosion Hazard Rating: Indicate Erosion Hazard Ratings present on PTHP. (Must match EHR worksheets)

Low [ ] Moderate [ ] High [ ] Extreme [ ]

If more than one rating is checked, areas must be delineated on map to 20 acres in size (10 acres for high and extreme EHRs in the Coast District).

11. a. [ ] Yes [ ]. No Are there any landowners within 1000 feet downstream of the PTHP boundary whose ownership adjoins or includes a Class I, II, or IV watercourse(s) which receives surface drainage from the proposed timber operations? If yes, the requirements of 1092.07 apply. Proof of notice should be attached to the PTHP. If no, 11 b. need not be answered.

b. [ ] Yes [ ] No Is an exemption requested of the notification requirements of 1092.07? If yes, explanation and justification for the exemption must be attached to the PTHP. Specify if you are requesting an exemption from the letter, the newspaper notice or both.

c. [ ] Yes [ ] No Was any information received on domestic water supplies that required additional mitigation beyond that required by standard Watercourse and Lake Protection rules? If yes, list site specific measures to be implemented by the LTO.

APPENDIX C PROGRAM TIMBER HARVESTING PLAN FORM

12. a. [ ] Yes [ ] No Is a confidential archaeological addendum as defined in 895.1 attached? If no, complete subsection b. and c. If yes, you may disregard b., but must complete c.

b. [ ] Yes [ ] No If archaeology was covered in the PTEIR, an archaeological survey has been conducted of the PTHP area according to current rules and no additional sites were found.

c. [ ] Yes [ ] No Are there any archaeological or historical sites located in the PTHP area? If yes, protection measures are contained in a confidential attachment to the PTHP.

13. a. [ ] Yes [ ] No Will timber operations cause any significant adverse impacts to occur to any threatened or endangered plant or animal species in the area of the PTHP?

b. [ ] Yes [ ] No Will timber operations be conducted in compliance with an accepted "no take" or authorized incidental "take" procedure, either of which has authorization or concurrence of a wildlife agency acting within its authority under state or federal endangered species acts for a listed species? If yes, then describe the species and applicable permit or procedure.

NOTE: See the CDF Mass Mailing, 07/02/1999, section on "CDF Guidelines for Species Surveys and Mitigations" to complete these questions.

_____

_____

_____

_____

14. [ ] yes [ ] No Are there any unique areas in the area of the PTHP? If yes list the areas and any special provisions.

15. [ ] Yes [ ] No Are there any practices that are deviations from the standard operational rules which were reviewed under the certified PTEIR? If yes, the deviations and required practices must be listed in the attached checklist.

16. [ ] Yes [ ] No Are there any operational practices which deviate from the standard rules that were not reviewed under the PTEIR but which are allowed in the rules? If yes provide description, location, explanation and justification.

17. RPF preparing the PTHP: Name _____RPF Number

Address

City _____ State _____ Zip _____ Phone

a. [ ] Yes [ ] No I have notified the plan submitter, in writing, of their responsibilities pursuant to Title 14 CCR 1092.11 of the Forest Practice Rules.

b. [ ] Yes [ ] No I have notified the timberland owner, in writing, of their responsibilities for compliance with the Forest Practice Act and, where applicable, Board rules, regarding site preparation, stocking, and maintenance of roads, landings, and erosion control facilities.

APPENDIX C PROGRAM TIMBER HARVESTING PLAN FORM

c. I have the following authority and responsibilities for preparation and administration of the PTHP and timber operation. (Include both work completed and work remaining to be done):

d. Additional required work requiring an RPF which I do not have the authority or responsibility to perform:

e. I certify that I, or my supervised designee, personally inspected the PTHP area and that the proposed timber operations are within the scope of the environmental analysis contained in the PTEIR and therefore will not result in any significant environmental impacts beyond those addressed in the PTEIR. There have been no physical environmental changes in the PTHP area that are so significant as to require any addendum or supplement to the PTEIR.

Signature_____Date

DIRECTOR OF FORESTRY AND FIRE PROTECTION

This Program Timber Harvesting Plan conforms to the rules and regulations of the Board of Forestry, the Forest Practice Act, and the PTEIR:

By: _____
(Signature) (Date)

_____
(Printed Name) (Title)

APPENDIX D BOARD MEMORANDUM

STATE OF CALIFORNIA—THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, *Governor*

BOARD OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246
SACRAMENTO, CA 94244-2460
Website: http://www.bof.fire.ca.gov/
(916) 653-8007

MEMO

Date: February 8, 2007

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.

APPENDIX D BOARD MEMORANDUM

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).