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# TRINITY COUNTY COMMERCIAL CANNABIS PROGRAM TRANSITION PLAN

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**Trinity County Planning Department  
Cannabis Division**

**October 19, 2021**

**Board of Supervisors Review**

# TABLE OF CONTENTS

<b>INTRODUCTION</b>	<b>1</b>
<b>SECTION 1: COMMERCIAL CANNABIS LICENSE APPROVAL WITH CHECKLIST</b>	<b>3</b>
SUBSECTION 1.1 CHECKLIST ADDENDUM	3
SUBSECTION 1.2 DESCRIPTION AND BASIS IN LAW	3
SUBSECTION 1.3 BENEFITS OF THE PEIR	4
SUBSECTION 1.4 STRATEGIES FOR MAXIMIZING THE BENEFITS OF APPROVAL BY CHECKLIST	4
SUBSECTION 1.5 CIRCUMSTANCES WHEN THE CHECKLIST MAY BE USED	5
SUBSECTION 1.6 CHECKLIST CONTENT REQUIREMENTS	5
SUBSECTION 1.7 PROJECT DESCRIPTION	5
SUBSECTION 1.8 QUALIFICATIONS FOR COMPLETING THE CHECKLIST	6
SUBSECTION 1.9 STATE GENERAL ORDER (SGO)	6
SUBSECTION 1.10 PIECEMEALING	6
SUBSECTION 1.11 PRE-EXISTING CEQA DOCUMENTATION – CATEGORICAL EXEMPTION	7
SUBSECTION 1.12 PRE-EXISTING CEQA DOCUMENTATION – NEGATIVE DECLARATION	8
<b>SECTION 2: CHECKLIST PROCESSING</b>	<b>9</b>
SUBSECTION 2.1 PROCESSING PRIORITIZATION	9
SUBSECTION 2.2 PROCESS	11
SUBSECTION 2.3 DENSITY CONSIDERATION	11
SUBSECTION 2.4 LICENSE NUMBERING	12
SUBSECTION 2.5 CCL TRANSFERS	12
SUBSECTION 2.6 CHECKLIST REVIEW BY RESPONSIBLE AGENCIES	12
SUBSECTION 2.7 TRIBAL NOTIFICATION	13
SUBSECTION 2.8 COMPLIANCE DETERMINATION	13
<b>SECTION 3: MITIGATION IMPLEMENTATION</b>	<b>14</b>
SUBSECTION 3.1 MITIGATION PLAN	14
SUBSECTION 3.2 DEFERRED MITIGATION	14
SUBSECTION 3.3 FAILED MITIGATION IMPLEMENTATION	15
SUBSECTION 3.4 LICENSE REVOCATION	15
SUBSECTION 3.5 MITIGATION TIERS	15
<b>SECTION 4: LATER (SUBSEQUENT) ACTIVITIES</b>	<b>16</b>
SUBSECTION 4.1 PEIR USE WITH LATER ACTIVITIES	16
SUBSECTION 4.2 SUBSEQUENT EIRs & NEGATIVES DECLARATIONS	17
SUBSECTION 4.3 SUPPLEMENT TO AN EIR	17
SUBSECTION 4.4 ADDENDUM TO AN EIR OR NEGATIVE DECLARATION	18
<b>SECTION 5: LIST OF MITIGATIONS</b>	<b>19</b>
<b>SECTION 6: LIST OF MITIGATIONS</b>	<b>22</b>
<b>FOOTNOTES</b>	

## INTRODUCTION

The goal of this Transition Plan is to create a guidebook that outlines the process in which review is carried out. The process must be transparent, fair, and efficient. It must provide a means for individual, site-specific, discretionary review of each project. Trinity County is in a unique position in implementing a cannabis program that attempts to offer licensing and CEQA compliance for a pre-existing use.

With the adoption of this Transition Plan, Trinity County is to facilitate the licensing of cannabis operations in accordance with the Trinity County Ordinance 315-849, including Zoning Code Chapters 17.43 through 17.43G, and the Guidelines for the California Environmental Quality Act, §15000-15387 of the California Code of Regulations Title 14, Chapter 3.

### CEQA Streamlining Strategy

The Cannabis Program EIR (PEIR) has fully analyzed all impacts of County cannabis licenses defined in the Zoning Ordinance. However, changes in circumstances or the program after the certification of the PEIR document may require some changes or additions. If proposed changes are sufficient enough to trigger a review of the environmental document, it may be appropriate to prepare an addendum to the PEIR, a Supplemental EIR or a Subsequent EIR.

The CEQA Guidelines encourage lead agencies to use tiering, when appropriate, to streamline CEQA compliance for a subsequent project following certification of a Program EIR. When a County has previously certified a Program EIR covering its Commercial Cannabis Program, the agency may rely on the analyses of environmental impacts in that program-level CEQA document and need not repeat these analyses.

- **If the County can document that the impacts of cannabis permitting projects are sufficiently evaluated in the Program EIR, these are considered "subsequent activities" under CEQA, and the County may take advantage of the streamlining strategies.**

If the County determines that many, though not all, of the impacts of a subsequent activity were covered by the Program EIR, because detailed, site-specific information about subsequent projects related to the program may not have been feasible, the subsequent activity should be treated as a separate project under CEQA. In these types of situations, the County may prepare a focused initial study (IS), MND or EIR that tiers from the Program EIR.

Tiering does not excuse the County from adequately analyzing the reasonably foreseeable significant environmental effects of the program and does not justify deferring such analysis to a later-tier environmental document. However, the level of detail contained in a Program EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed.

### Scope

The scope of this Transition Plan addresses the following four (4) CEQA streamlining strategies:

1. Approval of a Site-Specific Activity Fully Covered by a Prior CEQA Document - Streamlining Strategy
2. Tiering from a Program Environmental Impact Report (PEIR)
3. Approving Site-Specific Activities Using Checklist
4. Approving Site-Specific Modification Using Checklist Addendum

### **Modifications to the Transition Plan**

This Transition Plan is meant to be iterative in nature with frequent review and modification when necessary. The Checklist may be revised or amended by the County to provide clarity, refine environmental factor questions, reduce redundancies and/or reflect future Ordinance amendments and CEQA documentation. If an applicant has received a Compliance Determination based on a Checklist prepared and accepted by the County prior to Checklist amendments, the applicant will not be required to completed a new Checklist. However, the County reserves the right to apply amended polices and administrative practices, as well as any future amended Ordinance conditions, to all licensees regardless of a completed checklist version submitted and accepted by the County. The County will make reasonable efforts to notify licensees and applicants of any modifications to the Checklist.

### **Other Resources**

1. FAQs
2. Commercial Cannabis Website
3. Outlines
4. Templates
5. Publications
6. Application Checklists
7. Informational Materials
8. Workshops
9. Guidance Documents for Specific Resource Compliance (example: groundwater/well monitoring techniques and reporting)

## SECTION 1: COMMERCIAL CANNABIS LICENSE APPROVAL WITH THE CHECKLIST

### 1.1 Checklist Addendum

As the CEQA lead agency, Trinity County can take actions when preparing cannabis cultivation ordinances and Program EIRs that will facilitate later tiering and minimize the scope of the Appendix C Environmental Checklist (Checklist). The Checklist environmental review “tiers off” and is considered to be an addendum to the certified Trinity County Cannabis Program Environmental Impact Report (PEIR).

- **The County has developed the Checklist for each commercial cannabis applicant to complete for every license application.**

The inclusion of measures in the cannabis cultivation ordinance protects environmental resources and simplifies the preparation of the Checklist by essentially incorporating environmental commitments into every individual project and providing substantial evidence that significant environmental impacts are avoided. Program-level mitigations from the PEIR have been incorporated into the Commercial Cannabis Program ordinances (Trinity County Ordinance 315-849), thus providing protections for a wide range of environmental resources.

The incorporation of program-level mitigation measures that protect environmental resources in the PEIR provide benefits for subsequent projects that are analyzed in the Checklist documents. When such mitigation measures can be demonstrated to eliminate the potential for subsequent projects to result in potentially significant environmental impacts, then the Checklist can rely on the analysis in the PEIR to provide substantial evidence that the subsequent projects would not contribute to such impacts.

The Checklist enables applicants to identify the appropriate mitigations for their site based on specific site conditions. The applicant must further describe how each mitigation will be implemented

Section 15168(c)(4) of the CEQA Guidelines recommends that:

“Where the later activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were within the scope of the Program EIR.”

The prepared Checklist, after review and approval by the County, will result in a Compliance Determination that will be provided to DCC as necessary for state applications. The County will provide documentation for DCC of the County’s reasoning in concluding that the proposed activity fits within the analysis covered by the PEIR and that subsequent environmental review is not required.

### 1.2 Description and Basis in Law

The purpose of the Checklist is to evaluate the categories in terms of any “changed condition” (i.e., changed circumstances, project changes, or new information of substantial importance) that may result in environmental impact significance conclusions different from those found in the PEIR.

The row titles of the Checklist include the full range of environmental topics, as presented in Appendix G of the State CEQA Guidelines. The column titles of the checklist have been modified from Appendix G to be specific to the PEIR, Ordinance 315-849 and the County’s Commercial Cannabis Program, to help answer the questions to be addressed pursuant to CEQA Section 21166 and State CEQA Guidelines Section 15162. A “no” answer does not

necessarily mean that there are no potential impacts relative to the environmental category, but that there is no change in the condition or status of the impact because it was analyzed and addressed with mitigation measures in the PEIR. For instance, the environmental categories might be answered with a “no” in the checklist because the impacts associated with the project were adequately addressed in the Cannabis Program EIR, and the environmental impact significance conclusions of the Cannabis Program EIR remain applicable. When that is the case, it should be noted on the Checklist as well.

CEQA Guidelines Section 15164<sup>i</sup> provides that an agency may prepare an addendum to a previously certified PEIR if “some changes or additions are necessary but none of the conditions described in Section 15162<sup>ii</sup> calling for preparation of a subsequent EIR have occurred.” For adopted NDs or MNDs, an addendum may be prepared if only “minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.”

### 1.3 Benefits of the PEIR

The use of checklist to a PEIR provides a greatly simplified CEQA compliance process for subsequent activities or “later activity.”

- **A subsequent or later activity is any of County cannabis license types, either individually or in combination on a single parcel. For example, a cultivation and nursery license or a processing and distribution license in combination on a single property.**

The preparation of an addendum can be a very simple and relatively inexpensive process (compared to preparation of other types of CEQA documents), saving time and money. In addition, the addendum is an internal document which does not need to be circulated for public review and comment, nor adoption at a public hearing.

### 1.4 Strategies for Maximizing the Benefits of Approval by Checklist

While a public hearing is not required by a later activity under an existing Program EIR, as described above and in the CEQA guidelines, transparency and consistency the Cannabis Division will implement a process to ensure that completed Checklists qualify for a Compliance Determination. Prior to the Completeness Determination, notices shall be given in a manner meeting the noticing requirements of CEQA for a Notice of Determination. Notifications containing the same project information, including a link to the County’s Cannabis Program website, will be published and mailed to adjacent landowners within 300 ft. of the parcel where the project will occur. Notices will also contain the website link to the County’s Cannabis Program website that with project information, the date of approval and the period when an appeal of the decision can be filed.

This approach with the approval of Compliance Determination, accompanied by the issuance of the commercial cannabis license, will allow for an appropriate level of public notification, comment and review of the environment document.

- **Appeals filed in opposition to the approval of a Compliance Determination and commercial cannabis license shall be referred to the Planning Commission in accordance with Trinity County Code section 17.34.110.**
- **Compliance Determinations and commercial cannabis licenses that are approved and are not appealed with be forwarded to the Chairman of the Board of Supervisors for signature.**

### 1.5 Circumstances When the Checklist May be Used

Public review of and comment on addenda is not required, and there are no noticing requirements under CEQA law. However, the Department of Cannabis Control (DCC) requests that local jurisdictions provide a copy of the memo-to-file described below to the applicant, so it can be provided with the application for a state license.

Appendix C is not required if a CEQA environmental review is being completed for an activity requiring an approved land use entitlement, such as a conditional use permit.

### 1.6 Checklist Content Requirements

There are no content requirements for the preparation of addenda in the CEQA Guidelines. However, the County will prepare a memo-to-file documenting its decision that the preparation of a subsequent CEQA document is not required and that this documentation addresses the considerations posed in CEQA Guidelines Section 15162, as listed above.

The checklist contents follow the Initial Study requirements outlined in CEQA Guideline Section 15063<sup>iii</sup> "Initial Study." However, a significant difference is that the county, as the lead agency, will not be completing the checklist. Rather, each cannabis license applicant will complete the checklist for submission to the county with, or in conjunction with, the application for licensure.

Specific subsections of the CEQA Guideline 15063 are include here for discussion:

15063(d) Contents. An Initial Study shall contain in brief form:

- (1) A description of the project including the location of the project;
- (2) An identification of the environmental setting;
- (3) An identification of environmental effects by use of a checklist, matrix, or other method, provided that entries on a checklist or other form are briefly explained to indicate that there is some evidence to support the entries. The brief explanation may be either through a narrative or a reference to another information source such as an attached map, photographs, or an earlier EIR or negative declaration. A reference to another document should include, where appropriate, a citation to the page or pages where the information is found.
- (4) A discussion of the ways to mitigate the significant effects identified, if any;
- (5) An examination of whether the project would be consistent with existing zoning, plans, and other applicable land use controls;
- (6) The name of the person or persons who prepared or participated in the Initial Study.

### 1.7 Project Description

The project description is the defining element or starting point for every CEQA environmental document. CEQA Guideline 15124<sup>iv</sup> "Project Description" states that the description of the project shall contain the following:

- (a) The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map.
- (b) A statement of the objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the

decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project and may discuss the project benefits.

- (c) A general description of the project’s technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.

The Project Description discussion should be included with the checklist, by may be included with other written material used to document the evaluation of the site and the activity to determine whether the environmental effects of the activity are within the scope of the PEIR.

Further, because the Checklist acts similar to an Initial Study and based on CEQA Guideline 15063(a)(1), the Checklist must include in its project description “all phases of project planning, implementation, and operation must be considered.”

- **For each section of the Checklist, the applicant must provide details regarding the activity and describe how the “project” (commercial cannabis activity) fits within the County’s Commercial Cannabis Program as analyzed in the Program EIR as a “subsequent activity.”**

### 1.8 Qualifications for Completing the Checklist

Specific qualifications are not required for the completion of the environmental Checklist itself. CEQA Guidelines do not include a definition “specialist” or specifically require any credentials. However, the County does require specific credentials for specific circumstances, such as wetland delineations, archeological/cultural studies and botanical surveys, the County must be provided and approve the qualifications of any specialist that provides documentation in support of a Checklist discussion.

Environmental Professionals may submit their qualification to the Planning Department for consideration on the forms found online on the Cannabis Program website: <https://www.trinitycounty.org/Commercial-Cannabis>

The County provides a frequently updated list of approved environmental professionals on the website as well.

### 1.9 State General Order (SGO)

All cultivation sites (new and licensed renewals) are required to demonstrate compliance with all applicable requirements of SWRCB Order WQ 2019-0001-DWQ. One requirement listed both under Attachment D, “Technical Report Guidance” and reiterated in Attachment A, “Definitions and Requirements for Cannabis Cultivation,” is the development of a Site Management Plan that describes how the cannabis cultivator is complying with the requirements listed in Attachment A.

- **Because this Site Management Plan is a requirement of the Water Board, the plan should be included in the Project Description for the Checklist.**

### 1.10 Piecemealing

The term Piecemeal is defined in CEQA statute § 21159.27 “Prohibition gains piecemealing to qualify for exemptions” and is pertinent to a discussion of the benefits of the Program EIR tiering strategy outlined in this section. This CEQA statute simply states that a project may not be divided into smaller projects to qualify for one or more exemptions. While light in terms of a definition, CEQA case law has numerous examples of how the issue of piecemealing is played out in California courts. The CEQA Guidelines define a project under CEQA as “the whole



of the action” that may result either directly or indirectly in physical changes to the environment. This broad definition is intended to provide the maximum protection of the environment.

- **Piecemealing or segmenting means dividing a project into two or more pieces and evaluating each piece in a separate environmental document, rather than evaluating the whole of the project in one environmental document.**

This is explicitly forbidden by CEQA, because dividing a project into a number of pieces would allow a Lead Agency to minimize the apparent environmental impacts of a project by evaluating individual pieces separately, each of which may have a less-than-significant impact on the environment, but which together may result in a significant impact. Segmenting a project may also hinder developing comprehensive mitigation strategies.

In general, if an activity or facility is necessary for the operation of a project, or necessary to achieve the project objectives, or a reasonably foreseeable consequence of approving the project, then it should be considered an integral project component that should be analyzed within the environmental analysis. The project description should include all project components, including those that will have to be approved by responsible agencies. When future phases of a project are possible, but too speculative to be evaluated, the EIR should still mention that future phases may occur, provide as much information as is available about these future phases, and indicate that they would be subject to future CEQA review.

- **Because of the existing prohibition on piecemealing as discussed here, a commercial cannabis operation may not receive any additional CEQA documentation other than what is covered under the existing Program EIR and any further CEQA document that tiers off of the EIR.**

For example, after completion of the environmental checklist and the receipt of a compliance determination, a commercial cannabis operation is not eligible for any additional Categorical Exemptions for alterations the project made in the future. The issuance of a Exemption is specifically prohibited. Rather, if expansion of a project is desired, or required by regulation, regardless of the ownership of the operation, company or stakeholder, the operation must complete an addendum to the original environmental checklist.

### **1.11 Pre-existing CEQA Documentation - Categorical Exemptions**

The County began making the determination that some operations qualify for Categorical Exemptions (CEs) in the early months of 2019. Approximately 100 CEs were posted between March and December 2019. After the completion of the EIR, the County will no longer issue CEs. Rather, the County will make a determination of compliance based on an operation’s adoption of ordinance performance standards, program-level mitigation measures, or standard environmental protection measures. While not a CEQA document as defined in the §21000 or § 15000, such as an IS, ND, MND or EIR document, a “determination of compliance” satisfies the requirements of CEQA.

In previous years, an applicant that has received a CE for one calendar year was required to be have a CE reissued for each subsequent year. The County’s logic for previous licensing years was that, because a CE only covered the actions related to the one-year license, any subsequent license issued was to be defined as a separate project. This CEQA reevaluation was required regardless of whether the operation had any changes to a project description.

The CEQA Guidelines (CCR §15300.2<sup>vi</sup>) established the exceptions where a CE does not apply. Those exceptions include the following:

1. **Location.** Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.
  2. **Cumulative Impact.** All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.
  3. **Significant Effect.** A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.
  4. **Scenic Highways.** A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.
  5. **Hazardous Waste Sites.** A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.
  6. **Historical Resources.** A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.
- **Sites that have been previously been issued CEs must complete a Checklist.**

However, based on the review of the Checklist some CE determination may remain in place and a Compliance Determination will not be necessary. This may occur when it can be determined that:

1. There have not been any changes made to the site, and
2. The six (6) exceptions listed above do not apply.

#### **1.12 Pre-existing CEQA Documentation – Negative Declarations**

Some commercial cannabis license types require a Conditional Use Permit (CUP), such as Type 3 medium cultivation licenses and nurseries. When a CUP is required a full CEQA analysis (Appendix G of the CEQA Guidelines) is required which usually results in a determination of a Mitigated Negative Declaration (MND). When a MND has been adopted, a supplemental MND will generally be the environmental document appropriate for changes made to an existing cannabis operation. Since an adopted CEQA determination exists, an Appendix C Checklist is not necessary since environmental clearance requirements have been satisfied.

## SECTION 2. CHECKLIST PROCESSING

### 2.1 Processing Prioritization

The Cannabis Division will prioritize the processing of renewals and new applications with the review of environmental Checklists and associated documentation necessary for a compliance determination.

The County recognizes that applications for new commercial cannabis operations have been received by the Cannabis Division but new licenses have not been issued. While it is not necessary to fully describe the reasons for any particular delays in process by the Cannabis Division, causes for processing delays range from inaccurate or incomplete data provided in an application, identified code violations that have yet to be remedied, incomplete components of an application such as setback variance requirements, state agency violations or incomplete notices of intent and staffing limitations within the Cannabis Division to fully vet and remedy application deficiencies. One or all of these issues may have delayed the processing of an application and issuance of a license.

Further, a moratorium was placed on application processing at various points in the 2020 growing season. An Urgency Ordinance was passed in early December of 2020 that further restricted the Cannabis Divisions processing of applications for commercial cannabis operations and accepting new applications. The intent of the Urgency Ordinance was to relieve the burden of license review by focusing only on the extension of existing licenses that met specific criteria demonstrating that they were active and in good standing with the Commercial Cannabis Program.

Figure 2.1

Appendix C Processing Prioritization		
Type	Status	Number of CCLs*
Active Application Renewals	Issued	308**
Pending New License Applications (Pre-2021)	Pending	108
Inactive Previously Issued CCL Renewals	Pending	34
New 2021 Applications	Pending	80
	<b>Total:</b>	<b>530</b>
*Approximate estimates as CCL numbers fluctuate on a weekly basis		
**Five (5) sites have currently obtained a site-specific CEQA determination with CUP approval		

For processing of Appendix C Checklists prioritization will apply:

- 1. Active Application Renewals** - Applicants in good standing who received extension letters under Urgency Ordinance No 1355. Checklists will be reviewed on a first come first serve basis. However, Checklists may be prioritized based on and license number (lowest to highest) and anniversary dates if necessary.
- 2. Pending Unprocessed renewal Applications (Pre-2021)** – This category includes applicants with fees paid and complete application packages that have not been issued. Checklists will be reviewed in order of file number and with verifiable interest/intent on continuing in the program.
- 3. Inactive Previously Issued CCL Renewals** – There are a variety of reasons why an applicant may not be in good standing and the license is considered to be inactive. Applicants in this category did not receive extension letters under Urgency Ordinance No. 1355. In these situations, applicants that did not receive extensions although a license was previously issued or active in 2019 or later. Checklists will be reviewed in order of receipt and CCL number.

4. **New 2021 Applications** - Applicants with fees paid and complete application packages in 2021. These applications will be reviewed in order of CCL number and with verified interest/intent on continuing in the application process.

Following the adoption of the Transition Plan, all Appendix C documents may be submitted. Electronic submittals are highly encouraged and may be sent to the following email referencing the County commercial cannabis license number and Appendix C in the subject line:

[Info.cannabis@trinitycounty.org](mailto:Info.cannabis@trinitycounty.org)

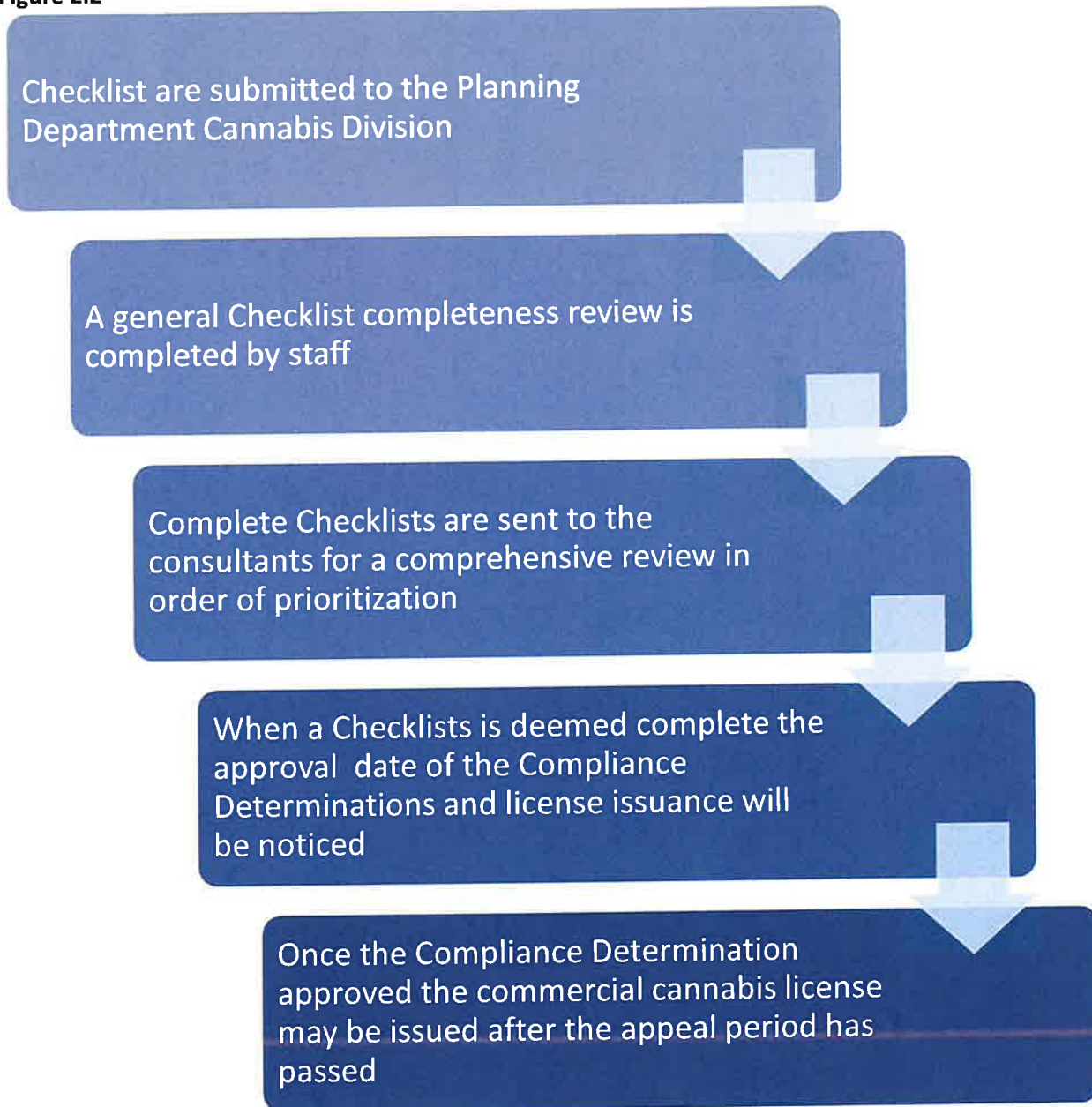
Please see the Cannabis Program website for additional and updated information.

- **Submitted Checklists will be processed based on the established prioritization.**

## 2.2 Process

The processing of Checklists will follow the sequence show below:

Figure 2.2



## 2.3 Density consideration

The density of commercial cannabis activities must come in to play at the point of processing renewal applications that have not, at the time of the passage of this Transition Plan, been issued a renewal license. Cumulative impacts are an environmental concern and are very relevant to this discussion of the order of application processing. Identifying those licenses that must specifically include a cumulative impact assessment in the environmental

checklist prior to the initiation of the checklist is critical in order to prevent the duplication or waste of time, funds and effort for the applicant.

- **The Checklist currently only lists “cumulatively considerable” impacts under the Air Quality, Hydrology and Water Quality and Mandatory Findings of Significance sections.**

“Cumulatively considerable” means that the incremental effects of a project are considerable when view in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. Section 5 provides additional information on how to address Cumulative Impacts.

## **2.4 License Numbering**

It is important to note that in previous years, roughly from 2016 to 2020, the Cannabis Division sought to provide Cannabis Cultivation License (CCL) numbers to each license that matched the order in which they, at that point new operation applications, were received, processed and licensed. This numbering system theoretically ranged from CCL-001 to CCL-530 to mirror the cap placed on licenses to be issued originally set by the Commercial Cannabis Ordinance Chapter 17.43 at 530.

The 530 CCL license cap was met in early October 2021. However, the current CCL numbering system is well beyond CCL-530 due to the fact that an application may receive a CCL number prior to the actual issuance of a license for the purposes of processing and tracking applications as they work through the licensing requirements. Some CCLs that were previously issued have been withdrawn, gone inactive or been revoked. When a licensee that has previously been in operation is no longer active in the program that CCL number is essentially “retired.” For these reasons, and other compounding factors, the CCL number ranking is not a viable method for determining the order of application and checklist processing.

## **2.5 CCL Transfers**

Zoning Ordinance section 17.43.030(E) provides for two different types of CCL transfers. The required CEQA analysis is significantly different for each type.

1. **Licenses that transfer to new owner/operators on an existing licensed site.** Applicants may use a completed Checklist. If the site has been issued a Compliance Determination that determination remains remain valid for that site.
2. **Licenses that transfer to another property.** A Checklist for the new CCL location will be required because CEQA determinations are site specific. Mitigations vary on the site. When an active CCL is transferred to a new site, the CEQA process must completed prior to any site development or cultivation until a Compliance Determination is issued for that location.

## **2.6 Checklist Review by Responsible Agencies**

During the Checklist review process, responsible agency review may occur when needed on specific environmental factors. Responsible agencies are those agencies that have discretionary approval authority over any portion of a project not governed by the Trinity County (Lead Agency). For commercial cannabis activities, this would include the following state agencies:

- Department of Fish & Wildlife,
- State Water Resources Control Board
- Department of Cannabis Control

**2.7 Tribal Notification**

Tribal notification, and consultation if requested, will occur in accordance with Public Resources Code § 21080.3.1 for Appendix C Checklists as required for Negative Declarations.

**2.8 Compliance Determination**

Once approved by the Planning Commission or Board of Supervisors, a Compliance Determination will be issued in the form of a memo-to-file described below, will be provided to the applicant and to DCC for state licensure. A copy of the Compliance Determination will also be added to the physical and electronic files in the Planning Department.

## SECTION 3: MITIGATION IMPLEMENTATION

The County Program EIR has detailed mitigations for all identified environmental impacts related to the Cannabis Program. In December 2020, these mitigations were written into an ordinance that functionally repealed, amended and then readopted the Commercial Cannabis Ordinance No. 315-849 with the integrated mitigation measures as performance standards. The Checklist allows for applicants to identify the specific mitigations and performance measures that are applicable and appropriate for individual operation sites. Further, after the “selection” of mitigations that must be implemented, the checklist allows for applicants to provide details for how each mitigation will be addressed. This section provides a discussion of approaches to mitigation selection, supporting documentation requirements and information performance measures.

### 3.1 Mitigation Plan

The creation of a plan to meet the requirements of a certain mitigations may be required. Some mitigations can be implemented immediately while others may require implementation over time to fully implement. Further, a requirement to immediately implement a mitigation may be infeasible. CEQA Guidelines provide a definition of what is feasible in section 15364<sup>vi</sup> “Feasible:”

“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

An example of a mitigation that may take time to fully implement is Measure 3.1-1A: Screen Cultivation Sites from County Scenic Roadways. Included in Ordinance regulations Chapter 17.43 as:

License applications for new cultivation sites and requests for license renewal for sites located within 0.5 mile of a County-designated scenic roadway will provide details on methods to screen the cultivation site from public views along the scenic roadway so that the developed site conditions blend with the existing visual character of the viewshed and does not dominate the view. Screening may be accomplished through retention of perimeter trees and other vegetation, revegetation as part of site modification or closure, or other methods determined acceptable to the County with locally appropriate native vegetation. This requirement will not apply to cultivation sites that demonstrate the site is not visible from the scenic roadway. Due to the topography of specific sites, a fence may not be adequate to screen a cultivation site from the roadway. For these sites, perimeter trees and other vegetation shall be used. (MM 3.1-1a.)

While the application of screening is limited to specific develop site conditions, an applicant may be required to plant vegetation. This vegetation will necessarily take time to mature to the point of meeting screening requirements of the performance measure. Therefore, the County may accept a plan for the installation, maintenance and performance of a vegetative screen that includes a multi-year timeline.

### 3.2 Deferred Mitigation

Under CEQA Guideline 15126.4, “Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects,” 15126.4 (a)(1)(B) states:

Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures shall not be deferred until some future time (emphasis added).

The County recognizes that the identified mitigations measures cannot be deferred to a future date, hence the immediate adoption of the mitigation measures as performance standards in the amended ordinance. The County



also recognizes that individual site conditions require unique timelines for each applicant to implement specific mitigation measures that are appropriate for each site.

Further, the same CEQA Guideline section 15126.4 (a)(1)(B) states:

The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure (emphasis added).

The County Program EIR has detailed mitigations for all identified environmental impacts related to the Cannabis Program. Based on this CEQA Guideline Section and applicable case law, the County recognizes that the Program EIR could not develop individual plans for each cannabis licensee. Therefore, the Checklist must permit applicants to apply Program EIR mitigations to site specific conditions through the development of Plans that outline site-specific performance standards implementation benchmarks.

The environmental checklist will enable applicants to identify the appropriate mitigations for their site based on specific site conditions. The applicant must further describe how each mitigation will be implemented. If a plan for implementation is necessary based on the mitigation requirements and site-specific conditions, the applicant must provide sufficient explanation, benchmarks and timelines to the satisfaction of the County.

### **3.3 Failed Mitigation Implementation**

Mitigations, and by extension mitigation plans, must be implemented within for the lifetime of the licensed operation. The County Cannabis Division must review, verify and enforce each mitigation that applies to each operation. Should a mitigation fail to be implemented, or not be implemented to the extent detailed in a mitigation plan and approved by the county, the license must be considered for denial and/or revocation until such time that the mitigation plan is fully implemented.

### **3.4 License Revocation**

Pursuant to County Code §17.43.070(A)(3), "Denial/revocation of license," the failure to implement of mitigation and/or the failure to meet a mitigation plan benchmark described, and approved by County, the operation will be determined to be subject to the following:

The operation as proposed by the applicant, if permitted, would not have complied with all applicable county and state laws, including, but not limited to; the building, planning, housing, fire and health codes of the county, including the provisions of this chapter and with all applicable laws including zoning and county ordinances.

All other subsection of County Code §17.43.070<sup>viii</sup> apply.

### **3.5 Mitigation Tiers**

The mitigations provided in the Cannabis Program EIR and the performance standards written in to the current ordinance can be broken down into categories based on the implementation requirements. Some mitigations require development of plans while others require the implementation of certain actions. Further, some mitigations apply to new cultivation sites while other apply to existing sites.

## SECTION 4: LATER (SUBSEQUENT) ACTIVITIES

### 4.1 PEIR Use with Later Activities

Subsequent later activities that may occur in the Commercial Cannabis Program must be examined in the light of the PEIR to determine whether an additional environmental document must be prepared.

For sites that have already received a Compliance Determination, if a later activity has effects that were examined by the PEIR, the applicant may prepare another Checklist for the site that specifically addresses the change resulting from that activity. For example, an expansion or reconfiguration of a cultivation site will require that an additional Checklist be prepared that provides an environmental analysis for that later activity environmental impacts of that activity and includes any required mitigations that apply to that activity.

- **If a later activity is occurring at a site that has already received a Compliance Determination, and that activity is addressed the PEIR, then a new Checklist must be submitted that specifically addresses that activity.**

If a later activity would have effects that were not examined in the certified PEIR, a new Initial Study would need to be prepared leading to either an EIR or a Negative Declaration. That later analysis may tier from the program EIR as provided in 14 CCR §15152.

When evaluating a later activity to determine whether it is eligible for consideration under a PEIR, the lead agency must determine whether the subsequent activity meets both of the following criteria:

1. It is consistent with the program, project or plan that the PEIR was certified.
2. It incorporates the feasible mitigation measures and alternatives developed in the program EIR. (Additional mitigation measures and alternatives may also be applied when a subsequent or supplemental EIR is prepared.)

The lead agency must evaluate the later activity and its location to determine whether the environmental effects of that activity were adequately described in the PEIR. If there are any new effects from the later activity, the lead agency must prepare an initial study to determine the significance of those effects. No subsequent EIR is necessary for a project that is essentially part of the "project" described by the PEIR unless:

1. The later project would propose substantial changes in the plan that were not described in the PEIR, requiring revisions to the program EIR due to the involvement of a new significant effect or a substantial increase in the severity of a previously identified effect.
2. Substantial changes have occurred in the circumstances under which the Commercial Cannabis Program was undertaken, requiring revisions to the program EIR due to the involvement of a new significant effect or a substantial increase in the severity of a previously identified effect.
3. New information of substantial importance that was not known and could not have been known at the time the PEIR was certified indicates that significant effects were not adequately analyzed or that mitigation measures or alternatives should be revisited. (See CEQA Guidelines §§ 15162,

15168(c)). If no subsequent EIR is required, the project is deemed to be within the scope of the program EIR and no additional environmental document would be required.

#### **4.2 Subsequent EIRs & Negative Declarations**

When an EIR has been certified or a negative declaration (ND) adopted for a project, no subsequent EIR or ND shall be prepared for that project unless the lead agency determines, based on substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the ND was adopted, shows any of the following:
  - a. The project will have one or more significant effects not discussed in the previous EIR or ND;
  - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

If changes to a project or its circumstances occur, or new information becomes available after adoption of an EIR or ND, the lead agency shall prepare a subsequent EIR if required under 14 CCR §15162(a). Otherwise, the lead agency shall determine whether to prepare a subsequent negative declaration or an addendum, or no further documentation. A subsequent EIR or subsequent ND shall be given the same notice and public review as required under CEQA Guidelines §15072 or §15087. A subsequent EIR or ND shall state where the previous documents are available and may be reviewed.

#### **4.3 Supplement to an EIR**

The lead or responsible agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

1. Any of the conditions described in 14 CCR §15162 would require the preparation of a subsequent EIR, and
2. Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

A supplement to the EIR need contain only the information necessary to make the previous EIR adequate for the project as revised, shall be given the same kind of notice and public review as is given to a draft EIR, and may be circulated by itself without re-circulating the previous draft or final EIR. When the agency decides whether to approve the project, the decision-making body shall consider the previous EIR as revised by the supplemental EIR. A finding under 14 CCR §15091 shall be made for each significant effect shown in the previous EIR as revised.

#### **4.4 Addendum to an EIR OR Negative Declaration**

The lead or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in 14 CCR §15162 calling for preparation of a subsequent EIR have occurred.

An addendum to an adopted ND may be prepared if only minor technical changes or additions are necessary or none of the conditions described in 14 CCR §15162 calling for the preparation of a subsequent EIR or ND have occurred. An addendum need not be circulated for public review, but can be included in or attached to the final EIR or adopted ND. The decision-making body shall consider the addendum with the final EIR or adopted ND prior to making a decision on the project. A brief explanation of the decision not to prepare a subsequent EIR pursuant to 14 CCR §15162 should be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

## **SECTION 5: LIST OF MITIGATIONS**

- MM 3.1-1A Screen Cultivation Sites from County Scenic Roadways
- MM 3.1-1b Maintain Cultivation Parcel
- MM 3.1-1c Fence Cultivation Site
- MM 3.1.2 IMPLEMENT Mitigation Measures 3.1-1a, 3.1-b, and 3.1-1c
- MM 3.3-1a Prohibit Burning Vegetation
- MM 3.3-1b Implement Diesel Engine Exhaust Control Measures and Dust Control
- MM 3.3-1c Use Alternative Fuels
- MM 3.3-2a Limit the Use of Fossil Fuel–Powered Outdoor Power Equipment at All Commercial Cannabis Cultivation and Noncultivation Sites
- MM 3.3-2b Require Use of Low Emission Diesel Back-Up Generators at All Commercial Cannabis Cultivation and Noncultivation Sites
- MM 3.3-3 IMPLEMENT Odor Control Plan for the Growing, Cultivating, Processing, Handling of Cannabis
- MM 3.4-1a Conduct Preapproval Biological Reconnaissance Surveys
- MM 3.4-1b Conduct Special-Status Plant Surveys and Implement Avoidance Measures and Mitigation
- MM 3.4-1c Implement Measures to Avoid Introduction of Spread of Invasive Plant Species
- MM 3.4-2a Conduct Preconstruction Surveys for Special-Status Amphibians
- MM 3.4-2b Conduct Surveys for Western Pond Turtle and Relocate Individuals
- MM 3.4-2c Conduct Preconstruction Nesting Raptor Surveys and Establish Protective Buffers
- MM 3.4-2d Conduct Northern Spotted Owl Preconstruction Habitat Suitability Surveys and Determine Presence or Absence of the Species
- MM 3.4-2e Conduct Preconstruction Special-Status Nesting Bird Surveys and Establish Protective Buffers
- MM 3.4-2f Conduct Preconstruction Surveys for Trinity Bristle Snail
- MM 3.4-2g Implement Measures to Avoid Take of Special-Status Bumble Bees or Obtain Incidental Take Coverage
- MM 3.4-2h Conduct Preconstruction American Badger Survey and Establish Protective Buffers
- MM 3.4-2i Conduct Preconstruction Fisher and Humboldt Marten Survey and Preserve Active Den Sites
- MM 3.4-2j Conduct Preconstruction Surveys for Ringtail and Implement Avoidance Measures
- MM 3.4-2k Conduct Preconstruction Surveys for Oregon Snowshoe Hare and Implement Avoidance Measures
- MM 3.10-3a Preconstruction Bat Survey and Exclusion
- MM 3.4-2m Preconstruction Vole Survey and Relocation
- MM 3.4-2n Implement Generator Noise Reduction Measures

- MM 3.4-2o Implement Measures to Avoid Take of Gray Wolf
- MM 3.4-3 IMPLEMENT Mitigation Measures 3.10-1a and 3.10-3b
- MM 3.4-4a Identify, Avoid, and Protect Sensitive Natural Communities, Riparian Habitat, and Wetland Vegetation or Provide Compensation
- MM 3.4-4b Restore Abandoned Cultivation and Nursery Sites
- MM 3.4-5 IDENTIFY Wetlands and Other Waters of the United States and Avoid These Features
- MM 3.4-6a Implement Mitigation Measure 3.4-5: Identify Wetlands and Other Waters of the United States and Avoid These Features
- MM 3.4-6b Retention of Fisher and Humboldt Marten Habitat Features
- MM 3.4-6c Implement Mitigation Measure 3.1-1b: Maintain Cultivation Parcel
- MM 3.5-1a Conduct Historic Evaluations for Existing Operations
- MM 3.5-1b Revise Ordinance to Include All Historic Districts and Additional Measures to Protect Historic Resources
- MM 3.7-2 IMPLEMENT Mitigation Measure 3.10-1a: Demonstrate Compliance with Water Resource Standards
- MM 3.7-4 PROTECTION of Discovered Paleontological Resources
- MM 3.8-1a Implement Mitigation Measures 3.3-1a, 3.3-1b, and 3.3-1c
- MM 3.8-1b Implement Mitigation Measures 3.3-2a and 3.3-2b
- MM 3.8-1c Renewable Electricity Requirements
- MM 3.8-1d Lighting Efficiency Requirements
- MM 3.9-2a Prepare Environmental Site Assessments
- MM 3.9-2b Prepare a Hazardous Materials Contingency Plan for Construction Activities
- MM 3.9-6 IMPLEMENT Mitigation Measure 3.14-3 and 3.14-4
- MM 3.10-1a Demonstrate Compliance with Water Resource Standards
- MM 3.10-1b Prohibit Cultivation in Floodplains
- MM 3.10-2 Conduct Groundwater Monitoring and Adaptive Management
- MM 3.10-3a Implement Mitigation 3.10-1a: Demonstrate Compliance with Water Resource Standards
- MM 3.10-3b Prohibit Commercial Cannabis Operations in Watersheds under a CDFA Moratorium
- MM 3.10-4 Implement Mitigation Measure 3.10-1b: Prohibit Cultivation in Floodplains
- MM 3.12-1 Construction Noise Mitigation
- MM 3.13-1 Implement Mitigation Measures 3.14-3 and 3.14-4.
- MM 3.14-3 Provide Site Access Free of Hazards Due to Geometric Roadway Design
- MM 3.14-4 Provide Adequate Emergency Access

MM 3.15-1a Prepare a Treatment Program for Noncultivation Activities

MM 3.15-1b Verification of Adequate Wastewater Service and Necessary Improvements for Public Wastewater Systems

MM 3.15-2 Verification of Adequate Water Supply and Service for Municipal Water Service.

MM 3.15-3 Implement a Cannabis Waste Composting Management Plan

MM 3.16-1 Implement Mitigation Measure 3.1-1b: Maintain Cultivation Parcel

MM 3.16-2a Implement Fire Prevention Measures for New Power Lines and Electrical Facilities

MM 3.16-2b Implement Fire Prevention Measures for On-Site Construction and Maintenance Activities

MM 3.16-3 Implement Mitigation Measure 3.10-1a: Demonstrate Compliance with Water Resource Standards

## **SECTION 6: DEFINITIONS**

**Addendum** - An addendum is a brief explanation supported by substantial evidence justifying the decision of the lead agency. A brief explanation of the decision not to prepare a subsequent EIR or ND should be included in the addendum or elsewhere in the record.

**Addenda** – Plural of addendum.

**Baseline** - Baseline” Under CEQA, lead agencies must identify the existing physical environment – i.e., the baseline set of environmental conditions – against which to compare a project’s expected impacts, in order to determine whether project impacts are “significant.”

**Bona Fide Intent** – In good faith, genuine, authentic.

**California Environmental Quality Act (CEQA)** - California's environmental review and protection law (Public Resources Code Sections 21000-21177).

**Categorical Exemptions** - Classes of projects that the state has determined not to cause significant environmental damage in most cases.

**CEQA Guidelines** - CEQA implementation regulations (Sections 15000-15387 California Code of Regulations) that have been prepared by the State Office of Planning and Research and adopted by the State Secretary of Resources. All agencies are expected to follow the guidelines when evaluating projects.

**Checklist** - The Trinity County Cannabis Program Environmental Checklist which is Appendix C of the Commercial Cannabis Program EIR.

**Compliance Determination** - A Compliance Determination is a CEQA document that establishes that an Appendix C Environmental Checklist is in compliance with the Trinity County Commercial Cannabis Program Environmental Impact Report.

**Cumulative Impacts** - “Cumulative Impacts” refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time. CEQA requires an EIR to discuss those cumulative impacts to which the project would contribute, and the importance of that contribution in the context of the cumulative impact.

**Cumulatively Considerable** – When the incremental effects of a project are considerable when view in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

**Department of Cannabis Control (DCC)** - The California State agency that licenses and regulates cannabis businesses.

**Deferred Mitigation** – The practice of postponing the precise determination of whether an impact is significant, or precisely defining required mitigation measures, until a future date.

**Discretionary Actions** - A discretionary project is one that requires the exercise of judgement or deliberation by a public agency in determining whether the project will be approved, or if a permit will be issued. CEQA applies to discretionary projects undertaken by a public entity or private parties.



**Discretionary Project** - Means a project which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, regulations, or other fixed standards. The key question is whether the public agency can use its subjective judgment to decide whether and how to carry out or approve a project.

**Environmental Impact Report (EIR)** - A detailed statement that describes and analyzes a project's potential significant environmental damages and proposes ways to mitigate or avoid the negative effects. A Draft EIR is the first review document released as part of the EIR process. Comments received during the Draft EIR's public review process are evaluated as part of a Final EIR process. The Final EIR contains a public agency's response to comments received, if any.

**Initial Study (IS)** - An initial study is a preliminary analysis conducted by the lead agency to determine if a project may have a significant effect on the environment. The initial study also aids in determining what type of environmental document to prepare.

**Later Activities** – Used interchangeable with “subsequent activities.” (CCR §15168(c)2-5)

**License** - Used interchangeably with permit

**Lead Agency** - The public agency that has the principal responsibility for carrying out or approving a project.

**Ministerial Action** - Approvals which involve the use of fixed standards or objective measures without requiring the use of personal or professional judgment (e.g., issuance of building permits and licenses).

**Mitigation Measures** - Mitigation measures are means to prevent, reduce or control adverse environmental effects of a project, and include restitution for any damage to the environment caused by those effects through replacement, restoration, compensation or any other means

**Mitigated Negative Declaration (MND)** - A mitigated negative declaration (MND) is a negative declaration (ND) that incorporates revisions (mitigation measures) in the proposed project that will avoid or mitigate impacts to a point where clearly no significant impacts on the environment would occur. (PRC §21064.5)

**Negative Declaration (ND)** - A Negative Declaration is authorized when the Lead Agency determines that no substantial evidence exists supporting a fair argument of significant effect. A MND applies when changes to the project or mitigation measures reduce the significant effects to a less than significant level or avoid them altogether. (PRC §21064)

**Notice of Determination** - The Notice of Determination is a brief notice filed by a public agency after it approves or decides to carry out a project that is the subject to the requirements of CEQA.

**Over-Concentration** - the state or an instance of having too much of something or too many things or people concentrated in one place.

**Permit** - Used interchangeably with license

**Piecemealing** - CEQA generally prohibits an agency from “chopping up” a large project into many little ones, each of which might have individually minimal environmental consequences, but collectively may

Trinity County Commercial Cannabis Program Transition Plan  
October 2021

have significant environmental impacts. This “chopping up” of a large project is known as “piecemealing.”

**Performance Standard** – A performance standard is an approved expression of the performance threshold, requirement, or expectation that must be met to be appraised at a particular level of performance.

**Project** - An activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following: (1) An activity directly undertaken by any public agency; (2) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies; and (3) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies (CEQA Guidelines).

**Program/Programmatic EIR (PEIR)** - The Cannabis Program Environmental Impact Report is the CEQA document prepared by Trinity County to analyze the environmental impacts of its Commercial Cannabis Program.

-OR-

An EIR which is prepared on a series of actions that can be characterized as one large project and are related either:

1. Geographically;
2. A logical part in the chain of contemplated action;
3. In connection with the issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or
4. As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.

**Provisional License** – An interim cannabis license program created by the State of California which allows applicants to operate their business while remaining application items, including demonstration of the project’s compliance with CEQA, and local approval are underway.

**Responsible Agency** - The term refers to any agency that has discretionary approval authority over any portion of a project not governed by the Lead Agency.

**Second "2<sup>nd</sup>" Tier Documents** - A general term referring to subsequent site-specific environmental document (e.g., EIR, NDS, and MNDS) that tier off a certified EIR.

**State General Order** – Means the State Water Resources Control Board (SWRCB) Order WQ 2019-0001-DWQ.

**Subsequent Activities** - Now described as "later activities"; 2021 California Environmental Quality Act (CEQA) Statute and Guidelines. Used interchangeably with "later activities."

**Supplemental EIR** - A supplement to the EIR shall be prepared when a later approval is required for the project, and the information available at the time of the later approval would permit consideration of additional environmental impacts, mitigation measures, or reasonable alternatives to the project

Trinity County Commercial Cannabis Program Transition Plan  
October 2021

**Thresholds of Significance** – An identifiable quantitative, qualitative, or performance level of a particular environmental effect that the Lead Agency considers to be a significant impact, and below which it will consider impacts to be less than significant. Thresholds of significance may vary based on the standards, or sets of criteria, that are most applicable to each specific type of environmental impact.

**Unusual Circumstances** - A project that, while belonging to a class of projects that typically have no significant environmental effects, nonetheless may have such effects.

## FOOTNOTES

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### A. Tiering from the Program EIR

The Cannabis Program EIR (PEIR) has fully analyzed all impacts of County cannabis licenses defined in the Ordinance. However, changes in circumstances or the program after the certification of the PEIR document may require some changes or additions. If proposed changes are sufficient enough to trigger a review of the environmental document, it may be appropriate to prepare an Addendum to the PEIR, a Supplemental EIR or a Subsequent EIR. The CEQA Guidelines encourage lead agencies to use tiering, when appropriate, to streamline CEQA compliance for a subsequent project following certification of a Program EIR. When a County has previously certified a Program EIR covering its Commercial Cannabis Program, the agency may rely on the analyses of environmental impacts in that program-level CEQA document and need not repeat these analyses.

- If the County can document that the impacts of cannabis permitting projects are sufficiently evaluated in the Program EIR, these are considered “subsequent activities” under CEQA, and the County may take advantage of the streamlining strategies as discussed above.
- If the County determines that many, though not all, of the impacts of a subsequent activity were covered by the Program EIR, because detailed, site-specific information about subsequent projects related to the program may not have been feasible, the subsequent activity should be treated as a separate project under CEQA. In these types of situations, the County may prepare a focused initial study (IS), MND or EIR that tiers from the Program EIR.

Tiering does not excuse the County from adequately analyzing the reasonably foreseeable significant environmental effects of the program and does not justify deferring such analysis to a later-tier environmental document. However, the level of detail contained in a Program EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed.

#### 1. SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS

When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, based on substantial evidence in the light of the whole record, one or more of the following:

- Substantial changes are proposed in the project which will require major revisions of the previous EIR or ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the ND was adopted, shows any of the following:
  - The project will have one or more significant effects not discussed in the previous EIR or ND;
  - Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

If changes to a project or its circumstances occur, or new information becomes available after adoption of a ND, the lead agency shall prepare a subsequent EIR if required under [14 CCR Section 15162(a)]. Otherwise, the lead agency

shall determine whether to prepare a subsequent negative declaration or an addendum, or no further documentation.

A subsequent EIR or subsequent ND shall be given the same notice and public review as required under CEQA Guidelines [Section 15072](#) or [Section 15087](#). A subsequent EIR or ND shall state where the previous documents are available and may be reviewed.

## 2. SUPPLEMENT TO AN EIR

The lead or responsible agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

- Any of the conditions described in [14 CCR Section 15162](#) would require the preparation of a subsequent EIR, and
- Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

The supplement to the EIR need contain only the information necessary to make the previous EIR adequate for the project as revised, shall be given the same kind of notice and public review as is given to a draft EIR under [Section 15087](#), and may be circulated by itself without re-circulating the previous draft or final EIR.

When the agency decides whether to approve the project, the decision-making body shall consider the previous EIR as revised by the supplemental EIR. A finding under [14 CCR Section 15091](#) shall be made for each significant effect shown in the previous EIR as revised.

## 3. ADDENDUM TO AN EIR OR NEGATIVE DECLARATION

The lead or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in [14 CCR Section 15162](#) calling for preparation of a subsequent EIR have occurred.

An addendum to an adopted ND may be prepared if only minor technical changes or additions are necessary or none of the conditions described in [14 CCR Section 15162](#) calling for the preparation of a subsequent EIR or ND have occurred. An addendum need not be circulated for public review, but can be included in or attached to the final EIR or adopted ND. The decision-making body shall consider the addendum with the final EIR or adopted ND prior to making a decision on the project. A brief explanation of the decision not to prepare a subsequent EIR pursuant to [14 CCR Section 15162](#) should be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

## 4. PEIR USE WITH LATER ACTIVITIES

Subsequent later activities that may occur in the Commercial Cannabis Program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared. If a later activity would have effects that were not examined in the certified program EIR, a new Initial Study would need to be prepared leading to either an EIR or a Negative Declaration. That later analysis may tier from the program EIR as provided in Section 15152.

Use With Later Activities (CCR §15168(c)(1)). When evaluating a later activity to determine whether it is eligible for consideration under a program EIR, OPR suggests that the lead agency must determine whether the subsequent activity meets both of the following criteria:

1. It is consistent with the plan or element for which the program EIR was certified. (A general plan amendment obviously would not qualify (See *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307).
2. It incorporates the feasible mitigation measures and alternatives developed in the program EIR. (Additional mitigation measures and alternatives may also be applied when a subsequent or supplemental EIR is prepared.)

Second, the lead agency must evaluate the later activity and its location to determine whether the environmental effects of that activity were adequately described in the program EIR. If there are any new effects from the later activity, the lead agency must prepare an initial study to determine the significance of those effects. No subsequent

EIR is necessary for a project that is essentially part of the “project” described by the general plan’s program EIR unless:

1. The later project would propose substantial changes in the plan that were not described in the program EIR, requiring revisions to the program EIR due to the involvement of a new significant effect or a substantial increase in the severity of a previously identified effect.
2. Substantial changes have occurred in the circumstances under which the general plan was undertaken, requiring revisions to the program EIR due to the involvement of a new significant effect or a substantial increase in the severity of a previously identified effect.
3. New information of substantial importance that was not known and could not have been known at the time the program EIR was certified indicates that significant effects were not adequately analyzed or that mitigation measures or alternatives should be revisited. (See CEQA Guidelines §§ 15162, 15168(c)). If no subsequent EIR is required, the project is deemed to be within the scope of the program EIR and no additional environmental document would be required.

Note: [https://opr.ca.gov/docs/OPR\\_C10\\_final.pdf](https://opr.ca.gov/docs/OPR_C10_final.pdf)

#### **Approving licenses under the Cannabis Program EIR**

If the impacts of a site-specific activity have been fully analyzed in a prior CEQA document, such as the Commercial Cannabis Program EIR, then there is no need not complete any further CEQA compliance. Since the PEIR has comprehensively analyzed environmental impacts of the program, a site-by-site assessment of impacts may not be required if the program will have similar impacts at each location. (See *Ctr. for Biological Diversity v. Department of Fish & Wildlife* (2015) 234 Cal.App.4th 214, 237.)

#### Description and Basis in Law

Section 15168<sup>i</sup> of the CEQA Guidelines addresses the preparation and use of Program EIRs. Section 15168(c) addresses CEQA compliance for “later activities.” It states:

Subsequent activities in the program must be examined in the light of the Program EIR to determine whether an additional environmental document must be prepared.

- (a) If a later activity would have effects that were not examined in the Program EIR, a new initial study would need to be prepared leading to either an EIR or a negative declaration. That later analysis may tier from the Program EIR as provided in Section 15152.
- (b) If the agency finds that pursuant to Section 15162, no subsequent EIR would be required, the agency can approve the activity as being with the scope of the project covered by the Program EIR, and no new environmental document would be required. Whether a later activity is within the scope of a program is a factual question that the agency determines based on substantial evidence in the record. Factors that an agency may consider in making that determination include, but are not limited to, consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the Program EIR.
- (c) An agency shall incorporate feasible mitigation measures and alternatives developed in the Program EIR into later activities in the program.

Though not addressed by CEQA Guidelines Section 15168, determining whether a later activity fits within the environmental analyses documented in a Cannabis Program EIR requires review of the same considerations.

#### ADDENDUM TO AN EIR (OR NEGATIVE DECLARATION)

CEQA Guidelines §15164 outlines the process for an addendum to an adopted EIR (or negative declaration but for the purpose of the Transition Plan the focus is on EIR documents).

- (a) The County or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.
- (b) An addendum may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR have occurred.
- (c) An addendum need not be circulated for public review but can be included in or attached to the final EIR.
- (d) The decision-making body shall consider the addendum with the final EIR prior to making a decision on the project.
- (e) A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included

in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

*Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 2116*

The CEQA Guidelines define the term "Program EIR" and describe the uses and advantages of a Program EIR. The relevant portion of Section 15168<sup>Error! Bookmark not defined.</sup> states:

- a. General. A Program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either:
  - (1) Geographically,
  - (2) As logical parts in the chain of contemplated actions,
  - (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or
  - (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.

CEQA Guidelines Section 15152<sup>Error! Bookmark not defined.</sup> defines tiering and provides details regarding when tiering may be used, how it should be undertaken, and its benefits.

Section 15152(a) defines tiering as "using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR solely on the issues specific to the later project." It provides the following further guidance:

- (d) Use with Subsequent EIRs. A Program EIR can be used to simplify the task of preparing environmental documents on later activities in the program. The Program EIR can:
  - (1) Provide the basis in an initial study for determining whether the later activity may have any significant effects.
  - (2) Be incorporated by reference to deal with regional influences, secondary effects, cumulative impacts, broad alternatives, and other factors that apply to the program as a whole.
  - (3) Focus an EIR on a later activity to permit discussion solely of new effects which had not been considered before.

CEQA Guidelines Section 15152<sup>1</sup> allows lead agencies to use information from a certified Program EIR in subsequent 2nd Tier documents, and to limit the analyses in these 2nd Tier documents to: 1) those topics not addressed at a project-specific level in the project EIR, and 2) those impacts that can be substantially reduced by the adoption of site-specific mitigation measures. Section 15168(d) allows the County to rely on the Program EIR for the analysis of broad-scale impacts (e.g., regional influences, secondary effects, cumulative impacts, broad alternatives) when preparing 2nd Tier documents for projects that are related to the program. If the Program EIR includes site-specific analyses, the subsequent document may rely on those analyses as well. This allows the County to focus the analysis in 2nd Tier documents solely on new effects not previously considered.

A focused IS or EIR may commonly be used when a lead agency determines that:

- the proposed project is subject to CEQA (e.g., a proposed project is not eligible for a statutory or categorical exemption);
- the proposed project is pursuant to, or consistent with, the program, plan, policy, or ordinance evaluated in the Program EIR;
- the prior Program EIR will be incorporated by reference, where applicable, to the focused IS and subsequent tiered negative declaration (ND), tiered mitigated negative declaration (MND), or tiered EIR; and
- the proposed project may result in new and/or additional impacts that were not previously examined, disclosed, and/or mitigated-for, and the County will be conducting additional preliminary analyses to determine the next appropriate CEQA action required.

### **Benefits**

The Cannabis Program EIR can simplify the CEQA compliance required for subsequent activities as it contains both sufficiently detailed analyses (including a detailed cumulative impact analysis) and sufficiently effective mitigation measures to ensure the avoidance of significant environmental impacts. The County, therefore, may rely on the Cannabis Program EIR document to entirely avoid the need to prepare subsequent documents such as Negative Declarations or Mitigated Negative Declarations. This effectively saves County staff time and money, and avoids delays associated with preparing subsequent CEQA documents, and circulating them for public review.

CEQA Guidelines Section 15168<sup>1</sup> lists the following benefits of Program EIRs:

b. Advantages. Use of a Program EIR can provide the following advantages. The Program EIR can:

- (1) Provide an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action,
- (2) Ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis,
- (3) Avoid duplicative reconsideration of basic policy considerations,
- (4) Allow the County to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts,
- (5) Allow reduction in paperwork.

2nd Tier documents (e.g., site-specific EIRs, NDs, and MNDs) may incorporate by reference the general discussions from the Program EIR and may focus analyses solely on the issues specific to the later project. A focused IS or EIR enables a lead agency to reduce the time, effort, and cost involved in preparing 2nd Tier documents by eliminating the need to complete certain analyses and by allowing the preparation of shorter documents. CEQA Guidelines Section 15152(d) limits the analysis in 2nd Tier documents to those effects that:

- (1) Were not examined as significant effects on the environment in the prior EIR; or
- (2) Are susceptible to substantial reduction or avoidance by the choice of specific revisions in the project, by the imposition of conditions, or other means.

This approach can eliminate repetitive discussions of effects, greatly reducing the effort involved in preparing the 2nd Tier documents.

Additionally, given the evolving regulatory setting for cannabis businesses and ever-changing cannabis cultivation market, a focused IS or EIR provides the lead agency an opportunity to address a changing environmental baseline, and/or changes which may have ensued following the publication of the Program EIR.

Another benefit of tiering is that 2nd Tier documents can rely on the cumulative impact analysis in the Program EIR, so agencies may not need to conduct any further analysis of cumulative impacts. Separately, the cumulative impact analysis contained in the Program EIR may be particularly useful when subsequent individual projects qualify for one or more categorical exemptions.

Thresholds of determination

#### **(e) Piecemealing**

The term Piecemeal is defined in CEQA statute § 21159.27<sup>i</sup> “Prohibition gains piecemealing to qualify for exemptions” and is pertinent to a discussion of the benefits of the Program EIR tiering strategy outlined in this section. This CEQA statute simply states that:

A project may not be divided into smaller projects to qualify for one or more exemptions pursuant to this article.

While light in terms of a definition, CEQA case law has numerous examples of how the issue of piecemealing is played out in California courts. The issue is most relevant to a project description that has a much more robust definition in CEQA statute and guidelines. A CEQA Portal Topic Paper titled “Project Description” was updated by the California Association of Environmental Professionals (AEP) on February 10, 2020. This topic paper states:

The CEQA Guidelines define a project under CEQA as “the whole of the action” that may result either directly or indirectly in physical changes to the environment. This broad definition is intended to provide the maximum protection of the environment.

Piecemealing or segmenting means dividing a project into two or more pieces and evaluating each piece in a separate environmental document, rather than evaluating the whole of the project in one environmental document. This is explicitly forbidden by CEQA, because dividing a project into a number of pieces would allow a Lead Agency to minimize the apparent environmental impacts of a project by evaluating individual pieces separately, each of which may have a less-than-significant impact on the environment, but which together may result in a significant impact. Segmenting a project may also hinder developing comprehensive mitigation strategies.

In general, if an activity or facility is necessary for the operation of a project, or necessary to achieve the project objectives, or a reasonably foreseeable consequence of approving the project, then it should be considered an integral project component that should be analyzed within the environmental analysis. The project description should include all project components, including those that will have to be approved by responsible agencies. When future phases of a project are possible, but too speculative to be evaluated, the EIR should still mention that future



phases may occur, provide as much information as is available about these future phases, and indicate that they would be subject to future CEQA review.

Summary: because of the existing prohibition on piecemealing as discussed here, a commercial cannabis operation may not receive any additional CEQA documentation other than what is covered under the existing Program EIR and any further CEQA document that tiers off of the EIR. For example, after completion of the environmental checklist and the receipt of a compliance determination, a commercial cannabis operation is not eligible for any additional Categorical Exemptions for alterations the project made in the future. The issuance of an Exemption is specifically prohibited. Rather, if expansion of a project is desired, or required by regulation, regardless of the ownership of the operation, company or stakeholder, the operation must complete an addendum to the original environmental checklist.

**(f) Preexisting CEQA Documentation**

**Categorical Exemptions**

The County began making the determination that some operations qualify for Categorical Exemptions in the early months of 2019. Approximately 100 CEs were posted between March and December 2019.

After the completion of the EIR, the County will no longer issue CEs. Rather, the County will make a determination of compliance based on an operation's adoption of ordinance performance standards, program-level mitigation measures, or standard environmental protection measures. While not a CEQA document as defined in the §21000 or § 15000, such as an IS, ND, MND or EIR document, a "determination of compliance" satisfies the requirements of CEQA.

In previous years, an applicant that has received an CE for one calendar year was required to be have a CE reissued for each subsequent year. The County's logic for previous licensing years was that, because a CE only covered the actions related to the one-year license, any subsequent license issued was to be defined as a separate project. This CEQA reevaluation was required regardless of whether the operation had any changes to a project description.

Preexisting CE's, issued between 2019 and 2020 will remain valid as long as the project description remains the same.

First come first serve [cumulative impacts].

Exceptions 15300.2<sup>i</sup>

Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR. (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the

Government Code. (f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

#### **Mitigated Negative Declaration**

Mandatory findings of significance<sup>i</sup> – addendum<sup>i</sup> based on cumulative impacts.

- (g) **Provisional Licenses**
- (h) **Annual Licenses**

#### **Strategies for Maximizing the Benefits of Tiering**

As the lead agency, the Trinity County Board of Supervisors or Planning Commission can take actions when preparing cannabis cultivation ordinances and Program EIRs that will facilitate later tiering and minimize the scope of 2nd Tier environmental review.

The Program EIR has fully analyzed all impacts of County cannabis licenses defined in the Ordinance. However, changes in circumstances or in the program after the certification of the Program EIR document require some changes or additions to the document. In such cases, it may be appropriate to prepare an addendum to the Program EIR.

##### **a. Provide Detailed Analysis in Program EIR**

To provide the greatest streamlining benefits, the analyses in the Program EIR is as detailed as possible, given the level of information available at the time the document was prepared and the county-wide focus of the analysis. If information about subsequent individual activities or projects is available, analyzing these impacts and adopting mitigation measures to avoid or reduce any significant environmental impacts can simplify the 2nd Tier environmental compliance that may be required.

Programmatic Mitigation Measures in Program EIR

The inclusion of measures in the cannabis cultivation ordinance protects environmental resources and simplifies the preparation of 2nd Tier documents by essentially incorporating environmental commitments into every individual project and providing substantial evidence that significant environmental impacts are avoided. Program-level mitigations from their Program EIR are written into the ordinance, thus providing protections for a wide range of environmental resources.

##### **(i) Provide Environmental Protections in Cannabis Ordinance**

The inclusion of measures in the cannabis cultivation ordinance protects environmental resources and simplifies the preparation of 2nd Tier documents by essentially incorporating environmental commitments into every individual project and providing substantial evidence that significant environmental impacts are avoided. Program-level mitigations from their Program EIR are written into the ordinance, thus providing protections for a wide range of environmental resources.

##### **(j) Cumulative Impact Analysis**

###### **(1) Background**

CEQA Guidelines Section 15300.2(b)<sup>i</sup> states:

All exemptions for these classes [of categorically exempt projects] are *inapplicable* when the cumulative impact of successive projects of the same type in the same place, over time is significant [*emphasis added*].

While the cumulative impact analysis required for projects otherwise qualifying for a categorical exemption is more narrowly focused than that required for an EIR, the completion of a thorough cumulative impact analysis in a Program EIR can be relied upon to demonstrate the lack of cumulative impacts, or the efficacy of ordinance provisions, program-level mitigation measures, or standard environmental protection measures in avoiding significant cumulative impacts. For more information about the analysis of cumulative impacts related to the Cannabis Program, please see Volume 2, Chapter 4 “Cumulative Impacts” of the Program EIR.

The Cumulative Impacts chapter of the Program EIR (chapter 4) provides an analysis of cumulative impacts of the Trinity County Cannabis Program taken together with other past, present, and probable future projects producing related impacts, as required by Section 15130<sup>i</sup> of the State CEQA Guidelines. The goal of such an exercise is twofold: first, to determine whether the overall long-term impacts of all such projects would be cumulatively significant; and second, to determine whether the incremental contribution to any such cumulatively significant impacts by the project would be “cumulatively considerable” (and thus significant). (See State CEQA Guidelines Section 15130[a]–[b], Section 15355[b], Section 15064[h], and Section 15065[a] and *Communities for a Better Environment v. California Resources Agency* [2002] 103 Cal. App. 4th 98, 120.) In other words, the required analysis intends first to create a

Trinity County Commercial Cannabis Program Transition Plan  
October 2021

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broad context in which to assess cumulative impacts, viewed on a geographic scale beyond the project site itself, and then to determine whether the project's incremental contribution to any significant cumulative impacts from all projects is itself significant (i.e., "cumulatively considerable").

Cumulative impacts are defined in State CEQA Guidelines Section 15355 as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." A cumulative impact occurs from "the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time" (State CEQA Guidelines Section 15355[b]).

Consistent with State CEQA Guidelines Section 15130, the discussion of cumulative impacts in this DEIR focuses on significant and potentially significant cumulative impacts. Section 15130(b) of the State CEQA Guidelines provides, in part, the following:

The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by the standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact.

Section 4.3, "Cumulative Impact Analysis," of the Program EIR contains a discussion of the cumulative effects anticipated from implementation of the Trinity County Cannabis Program, together with related projects and land use activities in the region, for each of the 16 environmental issue areas evaluated in this DEIR. It states:

The analysis conforms with Section 15130(b) of the State CEQA Guidelines, which specifies that the "discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by the standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact."

When considered in relation to other reasonably foreseeable projects, cumulative impacts on some resources would be significant and more severe than those caused by the project alone.

For purposes of this EIR, the project would result in a significant cumulative effect if:

the cumulative effects of related projects and land use activities (past, current, and probable future projects) are not significant and the incremental impact of implementing the Trinity County Cannabis Program is substantial enough, when added to the cumulative effects of related projects, to result in a new cumulatively significant impact; or the cumulative effects of related projects and land use activities (past, current, and probable future projects) are already significant and implementation of the Trinity County Cannabis Program makes a considerable contribution to the effect. The standards used herein to determine a considerable contribution are that either the impact must be substantial or it must exceed an established threshold of significance.

This cumulative analysis assumes that individual commercial cannabis operations comply with state and County cannabis regulations and all mitigation measures identified in Sections 3.1 through 3.16 are adopted and implemented. The analysis herein analyzes whether, after implementation of project-specific mitigation and performance criteria that minimize environmental effects, the residual impacts of the project would cause a cumulatively significant impact or would contribute considerably to existing/anticipated (without the project) cumulatively significant effects. Where the project would so contribute, additional mitigation is recommended where feasible.

The following is a synopsis of Cumulative impact section of the Findings provided to the County Board of Supervisors at the time of certification of the Program EIR. These Impacts are "not projected to result in any cumulatively considerable impacts" after implantation of the Cannabis Program:

- Substantial Adverse Cumulative Effect Related to Scenic Views, Scenic Highways, Visual Character and Lighting Impacts (Impact 4.3.1)
- Substantial Adverse Cumulative Effect Related to Agricultural and Forestry Impacts (Impact 4.3.2)
- Substantial Adverse Cumulative Effect Related to Biological Resource Impacts (Impact 4.3.4)

- Substantial Adverse Cumulative Effect Related to Archaeological, Historical, and Tribal Cultural Resource Impacts (Impact 4.3.5)
- Substantial Adverse Cumulative Effect Related to Energy Impacts (Impact 4.3.6)
- Substantial Adverse Cumulative Effect Related to Geology and Soil Impacts (Impact 4.3.7)
- Substantial Adverse Cumulative Effect Related to Greenhouse Gas Impacts (Impact 4.3.8)
- Substantial Adverse Cumulative Effect Related to Hazards and Hazardous Materials Impacts (Impact 4.3.9)
- Substantial Adverse Cumulative Effect Related to Water Quality, Groundwater, Flooding, and Surface Water Resource Impacts (Impact 4.3.10)
- Substantial Adverse Cumulative Effect Related to Land Use and Planning Impacts (Impact 4.3.11)
- Substantial Adverse Cumulative Effect Related to Public Service Impacts (Impact 4.3.13)
- Substantial Adverse Cumulative Effect Related to Traffic Operational Impacts, Vehicle Miles Traveled Impacts, and Roadway/Emergency Access Impacts (Impact 4.3.14)
- Substantial Adverse Cumulative Effect Related to Public Wastewater Impacts, Public Water Supply Impacts, and Solid Waste Impacts (Impact 4.3.15)
- Substantial Adverse Cumulative Effect Related to Wildfire Impacts (Impact 4.3.16)

Finding The Board finds that, based upon substantial evidence in the record, the potential impact related to the project's contribution to the above cumulative impacts are less than cumulatively considerable (Final EIR Volume 2, Chapter 4). The reader is referred to findings on project impacts and mitigation measures related to cumulative impacts in Section 1.2.3 and 1.2.4 below.

Two cumulative impacts were identified in the Program EIR as cumulative significant and could not be mitigated to a level of less than cumulatively considerable. The following is a synopsis of the Cumulative impact section of the Findings provided to the County Board of Supervisors at the time of certification of the Program EIR”

#### Air Quality Rationale

As discussed in Final EIR Volume 2 Section 3.3, “Air Quality,” feasible mitigation measures are not available to offset project-generated PM10 emissions from unpaved roadway use. While the Cannabis Program would require a minimum setback of 1,000 feet from youth-oriented facilities, schools, churches, and residential treatment facilities; and 350 feet from residences; it does not preclude the potential for off-site residential receptors to be exposed to objectionable odors emitted by mature cannabis plants. As discussed in Final EIR Volume 2 Impact 3.3-3, dispersion modeling indicate that specific cannabis compounds may be detectable at a distance of 2 miles or more depending on weather conditions. Because there is no feasible mitigation available, this impact would be cumulatively considerable and significant and unavoidable. (Final EIR Volume 2 Chapter 4 pages 4-6 through 4-7)

#### Road Noise Rationale

The typical approach to mitigate traffic noise levels is to construct structures (e.g., soundwalls, berms, or some berm-wall combination) between the roadway segment and the affected noise-sensitive receptors. However, this method would be infeasible given the extensive length of the affected state highway segments (i.e., over 45 contiguous miles along SR 3), and the number of sensitive receptors along these highway segments. Even if landowners were offered to have protective noise barriers constructed on their property, it cannot be assured that all the landowners of the affected properties would allow for the construction of a noise barrier. Additionally, if any soundwalls were proposed within Caltrans right-of-way, implementation of the improvements would not fall within Trinity County's jurisdictional control, and while the appropriate jurisdictions can and should implement feasible mitigation to reduce impacts, it cannot be guaranteed that these improvements would be implemented. Moreover, some noise barriers could potentially result in other types of environmental impacts (e.g., aesthetic impacts) or adversely affect the potential for a highway segment to be designated as a scenic highway. Because there is no feasible mitigation available, this impact would be cumulatively considerable and significant and unavoidable. (Final EIR Volume 2 Chapter 4 pages 4-14 through 4-15)

## Summary

### (k) Process Requirements

CEQA Guidelines Section 15152(g) provides guidance on the mechanics of tiering. It states:

When tiering is used, the later EIRs or negative declarations shall refer to the prior EIR and state where a copy of the prior EIR may be examined. The later EIR or negative declaration should state that the lead agency is using the tiering concept and that it is being tiered with the earlier EIR.

In places where the County intends to incorporate contents from another CEQA document by reference, the reference should also include, where appropriate, a citation to the page or pages from that document where the information is found.

The CEQA process requirements for tiered environmental documents do not differ from those outlined for a standard EIR, IS/MND, or IS/ND in the CEQA Guidelines.

Local lead agencies should provide copies of the tiered EIR, IS/MND, or IS/ND to applicants so they can be provided with their applications to CDFA. A copy of the 1st tier document, or a link to where the 1st tier document can be obtained, should also be provided, so CDFA can examine that document.

There are no process-related requirements for the preparation of addenda in the CEQA Guidelines. Public review of and comment on addenda is not required, and there are no noticing requirements. However, CDFA requests that local jurisdictions provide a copy of the memo-to-file described below to the applicant, so it can be provided to CDFA with the application for a license.

### (l) Public Noticing

#### (1) Background

As described in the CEQA Guidelines, there are no process requirements imposed by CEQA for the approval of later activities, as neither the preparation of environmental compliance documents nor any notification or public involvement is required. However, the County notes that CEQA Guidelines Section 15168(e)<sup>Error! Bookmark not defined.</sup> provides some additional instruction regarding public notification, stating that, if at the time that the County proposes to approve the subsequent activity by relying on the Program EIR, a law other than CEQA requires public notice, the notice for the activity must include a statement that (1) the activity is within the scope of the program approved earlier and (2) the Program EIR adequately describes the activity for the purposes of CEQA.

§ 21152. LOCAL AGENCY; APPROVAL OR DETERMINATION TO CARRY OUT PROJECT; NOTICE; CONTENTS; PUBLIC INSPECTION; POSTING

If a local agency determines that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or pursuant to Section 21172, and the local agency approves or determines to carry out the project, the local agency or the person specified in subdivision (b) or (c) of Section 21065 may file a notice of exemption with the county clerk of each county in which the project will be located. A notice filed pursuant to this subdivision shall identify the person or persons in subdivision (b) or (c) of Section 21065, as reflected in the agency's record of proceedings. A notice filed pursuant to this subdivision by a person specified in subdivision (b) or (c) of Section 21065 shall have a certificate of determination attached to it issued by the local agency responsible for making the determination that the project is not subject to this division pursuant to subdivision (b) of Section 21080 or Section 21172. The certificate of determination may be in the form of a certified copy of an existing document or record of the local agency.

#### 15062. NOTICE OF EXEMPTION notices

(c) When a public agency approves an applicant's project, either the agency or the applicant may file a Notice of Exemption.

- (1) When a state agency files this notice, the notice of exemption shall be filed with the Office of Planning and Research. A form for this notice is provided in Appendix E. A list of all such notices shall be posted on a weekly basis at the Office of Planning and Research, 1400 Tenth Street, Sacramento, California. The list shall remain posted for at least 30 days. The Office of Planning and Research shall retain each notice for not less than 12 months.
- (2) When a local agency files this notice, the notice of exemption shall be filed with the county clerk of each county in which the project will be located. Copies of all such notices shall be available for public inspection and such notices shall be posted within 24 hours of receipt in the office of the

county clerk. Each notice shall remain posted for a period of 30 days. Thereafter, the clerk shall return the notice to the local agency with a notation of the period it was posted. The local agency shall retain the notice for not less than 12 months

- (3) All public agencies are encouraged to make postings pursuant to this section available in electronic format on the Internet. Such electronic postings are in addition to the procedures required by these guidelines and the Public Resources Code.
- (4) When an applicant files this notice, special rules apply.
  - (A) The notice filed by an applicant is filed in the same place as if it were filed by the agency granting the permit. If the permit was granted by a state agency, the notice is filed with the Office of Planning and Research. If the permit was granted by a local agency, the notice is filed with the county clerk of the county or counties in which the project will be located.

## Summary

### (m) Compliance Determination

The County will produce a Compliance Determination to be signed and dated by the Director, or their representative, and kept the applicant/licensee file as a physical copy. This will also be backed up on the Cannabis Division server. The Compliance Determination may be provided to CDFA as proof of CEQA compliance, either by the County or the applicant, as proof of completion of the County Environmental Review process. The method by which an applicant may demonstrate compliance with another agency, such as CDFA, is yet to be determined. However, at present it is assumed that the County will both:

- (A) Notify the applicant that a Notice of Determination has been issued within 30 days of the determination the review is complete. The method of notification of the applicant will be based on the preferred method of contact/notification which is listed in the application and/or license materials. It is the responsibility of the applicant/licensee to assure that his information is current and includes secondary methods of communication should the first method not be functional.
- (B) Provide CDFA with a current list of applicants/licenses that have received a Compliance Determination. This list should be updated regularly, likely on a monthly basis as well as based on inquiries from the CDFA. This method of update, and inquiry response, may be extended to other agencies, as needed based on County determination.

The County may, but is not required to, prepare notices of determination (NODs) and file them with the State Clearinghouse for activities approved in this manner, so that the NOD and any supporting documentation (see 5. Content Requirements below) can be provided to applicants to provide to CDFA. However, the preparation of NODs will likely be limited to unusual circumstances (see "Other Considerations" section below).

15373<sup>1</sup>. NOTICE OF DETERMINATION "Notice of Determination" means a brief notice to be filed by a public agency after it approves or determines to carry out a project which is subject to the requirements of CEQA. The contents of this notice are explained in Sections 15075 and 15094.

15075 NOTICE OF DETERMINATION ON A PROJECT FOR WHICH A PROPOSED NEGATIVE OR MITIGATED NEGATIVE DECLARATION HAS BEEN APPROVED.

15094<sup>1</sup> NOTICE OF DETERMINATION

The County may provide notices in the Trinity Journal when licenses are issued. Notices in the Trinity Journal will provide information on individual license that is limited to Assessor Parcel Numbers (APN) and license types. Individual names will not be published for safety reasons. APNs are publicly available data and are sufficient for determining the location of an operation.

### (1) PC Oversight Function

The County will rely on County Code section 18.04.030.A.1<sup>1</sup>, which allows the Director to make the CEQA determination for director-issued permits. The County acknowledges section 18.04.050<sup>1</sup>, which says that when a ND or EIR is required, the PC or BOS still has to "accept" the document by motion, resolution, or minute order. The Cannabis Division will create a consent calendar approach for the Planning Commission to "accept" Compliance Determinations. The Planning Director will give the notice to issue the permit and to do so with a Compliance

Determinations, then place the ratification of that Compliance Determinations on a consent calendar (or a special section of the agenda created for this purpose). Obviously, if someone wants to challenge that, then the matter can be pulled – as with a consent item – and discussed.

This process will remain in place until and unless an amendment to the code states that Compliance Determinations for the lower-level cannabis licenses can be issued by the director without the need for the PC approval that currently exists in the Code. The right of appeal will remain intact so due process and an ability to exhaust remedies will remain an option.

#### **(n) Content Requirements**

As noted above, a focused 2nd Tier document narrows the content of the document to new and/or additional information unique to the proposed project and available to the public at the time of publication of the 2nd Tier document. The focused document may incorporate by reference the following types of information from the program EIR:

- Regulatory and environmental settings,
- Impact evaluations,
- Analyses of alternatives,
- Analyses of cumulative impacts, and
- Supporting evidence for those impact topics previously considered in the Program EIR.

All other content requirements for an EIR, IS/ND, or IS/MND also pertain to a focused checklist document. These include the Environmental Factors analyzed in the Program EIR

Section 15168(c)(4) of the CEQA Guidelines recommends that:

Where the later activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were within the scope of the Program EIR.

The County has prepared a checklist for each license applicant (subsequent activities) to complete. The prepared checklist, after review and approval by the County, will be proved to CDFA as necessary for CDFA applications. The County will provide documentation for CDFA of the County's reasoning in concluding that the proposed activity fits within the analysis covered by the Program EIR and that subsequent environmental review is not required.

#### **(o) Circumstances When It May be Used**

A program-level document can be used to approve a subsequent activity when the program-level document is prepared in a manner that facilitates this process. Section 15168(c)(5) provides the following guidance regarding the required contents of a Program EIR to be used to cover subsequent activities. It states:

A Program EIR will be most helpful in dealing with subsequent later activities if it provides a description of planned activities that would implement the program and deals with the effects of the program as specifically and comprehensively as possible. With a good and detailed project description and analysis of the program, many subsequent later activities could be found to be within the scope of the project described in the Program EIR, and no further environmental documents would be required.

For cannabis cultivation projects, if a program-level document provides information regarding the range of projects that are covered by the analysis (e.g., geographic or size limitations), particularly where such limitations tend to lead to reduced or avoided environmental impacts, subsequent activities fitting within those limitations may be covered as being within the scope of the program-level document approved earlier. For example, limiting cultivation to less than 1 acre of cultivated area, limiting activities to indoor cultivation, or limiting cultivation to geographic areas where impacts would be reduced or eliminated can avoid or minimize certain types of environmental impacts. In addition, if the program-level document specifies assumptions regarding resource usage by subsequent activities (e.g., maximum water use, energy use, wastewater flows) and concludes that impacts related to those resources would be less than significant, then activities fitting within those limitations may be determined to result in less-than-significant impacts and to be covered by the program-level document. Finally, it is very important that, if the program-level document specifies mitigation measures, such measures must be applied to the subsequent activity. Local jurisdictions may document the application of these measures by including them in the permit or decision document issued for individual projects and providing these to the applicant to include with their application to

CDFA.

For an addendum to be appropriate, the agency must determine that none of the following conditions described in CEQA Guidelines Section 15162<sup>ii</sup> apply:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
  - A. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - B. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - C. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternatives; or
  - D. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

A key consideration in determining whether an addendum may be used is whether “major revisions” to the previous CEQA document would need to be made. Recently a court found that when a project is initially approved by negative declaration, a major revision to the initial negative declaration will necessarily be required if the proposed modification may produce a significant environmental effect that had not previously been studied.<sup>i</sup>

<sup>i</sup> **15164. ADDENDUM TO AN EIR OR NEGATIVE DECLARATION**

- (a) The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.
- (b) An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.
- (c) An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.
- (d) The decision making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.
- (e) A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency’s findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21166, Public Resources Code; Bowman v. City of Petaluma (1986) 185 Cal.App.3d 1065; and Benton v. Board of Supervisors (1991) 226 Cal.App.3d 1467.

<sup>ii</sup> **15162. SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS**

- (a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:



- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
  - (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
  - (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
    - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
    - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
    - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
    - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.
- (b) If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subdivision
- (c) (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.
- (d) Once a project has been approved, the lead agency's role in project approval is completed, unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. If after the project is approved, any of the conditions described in subdivision (a) occurs, a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any. In this situation no other responsible agency shall grant an approval for the project until the subsequent EIR has been certified or subsequent negative declaration adopted.
- (e) A subsequent EIR or subsequent negative declaration shall be given the same notice and public review as required under Section 15087 or Section 15072. A subsequent EIR or negative declaration shall state where the previous document is available and can be reviewed.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21166, Public Resources Code; *Bowman v. City of Petaluma* (1986) 185 Cal.App.3d 1065; *Benton v. Board of Supervisors* (1991) 226 Cal.App.3d 1467; and *Fort Mojave Indian Tribe v. California Department of Health Services et al.* (1995) 38 Cal.App.4th 1574.

### iii 15063. INITIAL STUDY

- (a) Following preliminary review, the Lead Agency shall conduct an Initial Study to determine if the project may have a significant effect on the environment. If the Lead Agency can determine that an EIR will clearly be required for the project, an Initial Study is not required but may still be desirable.
- (1) All phases of project planning, implementation, and operation must be considered in the Initial Study of the project.
  - (2) To meet the requirements of this section, the lead agency may use an environmental assessment or a similar analysis prepared pursuant to the National Environmental Policy Act.
  - (3) An initial study may rely upon expert opinion supported by facts, technical studies or other substantial evidence to document its findings. However, an initial study is neither intended nor required to include the level of detail included in an EIR.
  - (4) The lead agency may use any of the arrangements or combination of arrangements described in Section

15084(d) to prepare an initial study. The initial study sent out for public review must reflect the independent judgment of the Lead Agency.

(b) Results.

- (1) If the agency determines that there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial, the Lead Agency shall do one of the following:
  - (A) Prepare an EIR, or
  - (B) Use a previously prepared EIR which the Lead Agency determines would adequately analyze the project at hand, or
  - (C) Determine, pursuant to a program EIR, tiering, or another appropriate process, which of a project's effects were adequately examined by an earlier EIR or negative declaration. Another appropriate process may include, for example, a master EIR, a master environmental assessment, approval of housing and neighborhood commercial facilities in urban areas, approval of residential projects pursuant to a specific plan described in section 15182, approval of residential projects consistent with a community plan, general plan or zoning as described in section 15183, or an environmental document prepared under a State certified regulatory program. The lead agency shall then ascertain which effects, if any, should be analyzed in a later EIR or negative declaration.
- (2) The Lead Agency shall prepare a Negative Declaration if there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment.

(c) Purposes. The purposes of an Initial Study are to:

- (1) Provide the Lead Agency with information to use as the basis for deciding whether to prepare an EIR or a Negative Declaration.
- (2) Enable an applicant or Lead Agency to modify a project, mitigating adverse impacts before an EIR is prepared, thereby enabling the project to qualify for a Negative Declaration.
- (3) Assist in the preparation of an EIR, if one is required, by:
  - (A) Focusing the EIR on the effects determined to be significant,
  - (B) Identifying the effects determined not to be significant,
  - (C) Explaining the reasons for determining that potentially significant effects would not be significant, and
  - (D) Identifying whether a program EIR, tiering, or another appropriate process can be used for analysis of the project's environmental effects.
- (4) Facilitate environmental assessment early in the design of a project;
- (5) Provide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment;
- (6) Eliminate unnecessary EIRs;
- (7) Determine whether a previously prepared EIR could be used with the project.

(d) Contents. An Initial Study shall contain in brief form:

- (1) A description of the project including the location of the project;
- (2) An identification of the environmental setting;
- (3) An identification of environmental effects by use of a checklist, matrix, or other method, provided that entries on a checklist or other form are briefly explained to indicate that there is some evidence to support the entries. The brief explanation may be either through a narrative or a reference to another information source such as an attached map, photographs, or an earlier EIR or negative declaration. A reference to another document should include, where appropriate, a citation to the page or pages where the information is found.
- (4) A discussion of the ways to mitigate the significant effects identified, if any;
- (5) An examination of whether the project would be consistent with existing zoning, plans, and other applicable land use controls;
- (6) The name of the person or persons who prepared or participated in the Initial Study.

(e) Submission of Data. If the project is to be carried out by a private person or private organization, the Lead Agency may require such person or organization to submit data and information which will enable the Lead Agency to

prepare the Initial Study. Any person may submit any information in any form to assist a Lead Agency in preparing an Initial Study.

(f) Format. Sample forms for an applicant's project description and a review form for use by the lead agency are contained in Appendices G and H. When used together, these forms would meet the requirements for an initial study, provided that the entries on the checklist are briefly explained pursuant to subdivision (d)(3). These forms are only suggested, and public agencies are free to devise their own format for an initial study. A previously prepared EIR may also be used as the initial study for a later project.

(g) Consultation. As soon as a Lead Agency has determined that an Initial Study will be required for the project, the Lead Agency shall consult informally with all Responsible Agencies and all Trustee Agencies responsible for resources affected by the project to obtain the recommendations of those agencies as to whether an EIR or a Negative Declaration should be prepared. During or immediately after preparation of an Initial Study for a private project, the Lead Agency may consult with the applicant to determine if the applicant is willing to modify the project to reduce or avoid the significant effects identified in the Initial Study.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080(c), 21080.1, 21080.3, 21082.1, 21100 and 21151, Public Resources Code; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, *Leonoff v. Monterey County Board of Supervisors* (1990) 222 Cal.App.3d 1337.

#### <sup>iv</sup> **15124. PROJECT DESCRIPTION**

The description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.

- (a) The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map.
- (b) A statement of the objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project and may discuss the project benefits.
- (c) A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.
- (d) A statement briefly describing the intended uses of the EIR.
  1. This statement shall include, to the extent that the information is known to the Lead Agency,
    - (A) A list of the agencies that are expected to use the EIR in their decision making, and
    - (B) A list of permits and other approvals required to implement the project.
    - (C) A list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements.
  2. If a public agency must make more than one decision on a project, all its decisions subject to CEQA should be listed, preferably in the order in which they will occur. On request, the Office of Planning and Research will provide assistance in identifying state permits for a project.

#### <sup>v</sup> **§ 21159.27. PROHIBITION AGAINST PIECEMEALING TO QUALIFY FOR EXEMPTIONS**

A project may not be divided into smaller projects to qualify for one or more exemptions pursuant to this article.

#### <sup>vi</sup> **15300.2. EXCEPTIONS**

- (a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located - a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the

Trinity County Commercial Cannabis Program Transition Plan  
October 2021

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project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.
- (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.
- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.
- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.
- (f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Note: Authority cited: Section 21083, Public Resources Code; References: Sections 21084 and 21084.1, Public Resources Code; *Wildlife Alive v. Chickering* (1977) 18 Cal.3d 190; *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896; *Citizens for Responsible Development in West Hollywood v. City of West Hollywood* (1995) 39 Cal.App.4th 925; *City of Pasadena v. State of California* (1993) 14 Cal.App.4th 810; *Association for the Protection etc. Values v. City of Ukiah* (1991) 2 Cal.App.4th 720; and *Baird v. County of Contra Costa* (1995) 32 Cal.App.4th 1464

vii **15364. FEASIBLE**

"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21002.1, 21004, 21061.1, 21080.5, and 21081, Public Resources Code; Section 4, Chapter 1438 of the Statutes of 1982

- A. secretary of the planning commission all papers and documents on file with the planning director relating to the appeal and schedule the appeal for the commission hearing.
- B. Registrant shall have the right to appeal any rescissions as prescribed in Section 8.90.130 of the Trinity County Code.

(Ord. No. 315-849 , § 1, 12-28-2020)