

PRELIMINARY DRAFT PROPOSAL
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Environmental Sustainability Legislation: Performance Plus Permitting

Background: With regard to environmental impacts, California's industries are regulated by prescriptive standards and controls, otherwise known as "command and control" regulatory programs. These regulatory programs generally operate to address pollution within a single medium, such as air or water, or to control a single type of substance, such as pesticides or toxins. Because the various environmental agencies implementing these laws operate independently of each other, compliance with regulations can prove burdensome for business owners and operators. This fuels continuing debates over whether environmental regulation impairs business' ability to be economically viable, and whether such regulatory schemes achieve the most effective and protective results for California's natural resources and citizens. Moreover, in light of increasing population and depleting resources, even were all industries to adhere strictly to current environmental laws and regulations, such efforts would prove insufficiently protective of human health and the environment.

Objective: Provide a catalyst for industry to shrink its environmental footprint while saving money and encouraging profitability. Improve California's environmental quality and economic vitality.

The Performance Plus Permitting (P3) Program: Creates an incentivized "parallel track" for environmentally responsible businesses and government enterprises to voluntarily exceed compliance standards. Encourages the use of pollution prevention initiatives (product redesign, material substitution, etc.) and other environmentally responsible efforts. Provides participating businesses with a efficient, less cumbersome regulatory process, while maintaining strict adherence to all legal and regulatory standards.

How The P3 Program Works: The alternative-permitting pathway achieves performance significantly beyond that required by existing environmental regulatory programs by offering applicants several incentives to participation. Eligible businesses and governmental entities attain benefits such as: a more efficient, less cumbersome regulatory process as they work with a single governmental liaison/ ombudsmand, cost savings in unregulated areas such as lower energy, water and materials usage, and fostering of good-will among consumers. The P3 program consists of two key components:

- (1) An application/disclosure process based on the California Environmental Quality Act (CEQA) procedural requirements.
- (2) A Performance Plus Permit including all heightened performance goals layered onto the mandatory requirements under other laws and regulations.

The CEQA-based application process: The application process for a P3 follows the CEQA process by discussing the project's "baseline" conditions and environmental impacts in an environmental impact report (EIR). The application includes a description of substantive mitigation measures, controls, monitoring and/or reporting obligations that are more aggressive than the command and control regulatory floor. The applicant commits to exceeding compliance standards by meeting targeted reductions over time using specified milestones.

The EIR compares the project's impacts under the P3 permit program and conventional permitting programs. As with all CEQA processes the public has an opportunity to comment and raise concerns or suggestions. Where multiple environmental media or regulated substances are involved, each regulatory agency would evaluate the application separately or relinquish control to a "lead agency" similar to CEQA.

The Performance Plus Permit: The Permit serves two functions. (1) It articulates the heightened performance-based objectives and how they will be accomplished. (2) It is a compendium of all other enforceable permits and/or an amalgamation of all substantive conditions.

A P3 has an initial term of four years. After four years, the permit could be renegotiated and renewed. The permittee provides annual progress reports. In the event that the permit holder either fails to meet milestones or is projected to not meet them, the permit holder must increase monitoring frequency. If necessary, the permittee would lose added benefits under the program and the P3 permit would revert to the substantive requirements of the applicable command and control regimes.

Benefits for California Businesses

- Efficient Regulatory Process
 - Reduced resources and time spent dealing with regulatory agencies
 - Better understanding of and adherence to legal obligations
- Recognized Status as a Superior Performer
 - Receipt of a "green logo for public recognition for PR and marketing
 - Better insurance rates as a responsible business
 - Increased revenues due to public response to good-will efforts
- Decreased Costs Through Pollution Prevention Efforts
 - Savings on raw materials and natural resources such as water
 - Savings on machinery and "end of pipe" control technologies
 - Savings on energy costs, fossil fuels consumption
- Preferential contracting with State Government Procurement

Benefits for the People of California and their Environment

- Vibrant, More Profitable California Businesses
 - Cost savings passed onto consumers/ stockholders
 - More jobs in the State
- Consistent Environmental Compliance With No Risk of Backsliding
 - Strict adherence to environmental regulations and laws
- Expanded Opportunity to Comment On and Participate In Development of Permit
 - Permit acquired through augmented CEQA process
- Improved Environmental Performance
 - Reduction in resource extraction, consumption and pollution
 - Lowering of greenhouse gas emissions