



Yana Garcia
Secretary for
Environmental Protection



P.O. Box 806 • 1001 "I" Street, Sacramento, California 95812-0806



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Proposed HWMP Metrics

Metric: Continued Permits

Intent: To report on DTSC's progress in reducing permits continued for more than 1 year.

Data to report: Number of permits continued for more than 1 year in the fiscal year.

Why it matters:

- Continuance of permits delays implementation and enforcement of updated permit conditions that reflect up-to-date environmental and public health protective measures
- Allows for status monitoring of permits currently continued for greater than 5 years
- Captures the extent of facilities operating with continued permits

Additional Information Provided by DTSC: Pursuant to Health and Safety Code 25200(c)(1)(B), permits are allowed to continue beyond a permit's fixed term so long as the facility submits a complete renewal application package to DTSC before the end of the permit's fixed term. The renewal package would include:

- A Part A and Part B application
- A signed written cost reimbursement agreement
- 25% advanced payment
- Any other information requested by DTSC

A permit that is continued past its fixed terms is typically referred to as a "continued permit" or an "extended permit." The rationale for setting the timing as continued for more than 1 year is to be consistent with the role of the BES in statute, which is to accept or modify the permit decision schedule proposed by the department in a report submitted for permit decisions that are not completed within 1 year after the fixed term.

The ultimate goal for this metric would be "0" continued permits. However, the continued permits may span several years therefore this metric may not represent year-by-year performance.

BES Resolution: BES recommends keeping the metric to measure how far DTSC is from the ultimate stated goal of zero continued permits.

Metric: On-Time Permit Decisions

Intent: To track the effectiveness of Permitting in reducing overdue permits by issuing permit decisions within the statutory timeline.

Data to report: Percentage of final permit renewal decisions completed on time (on-time renewal decisions/total renewal decisions in the fiscal year).

Why it matters:

1. SB158 mandate (HSC 25200) instituted permit decision timelines to ensure that permit holders operate on up-to-date permits.
 - DTSC Permitting must issue a decision on the permit renewal application no later than 1 year after end of permit term.
2. Data will inform on the performance of Permitting’s permit renewal process against the statutory requirements.
 - Provides public awareness on permit decisions that become overdue.

Additional Information Provided by DTSC: HSC 25200(c)(1)(D) requires facilities who are seeking renewals of their permit to submit a Part A and Part B application at least two years before the end of the facility’s current permit fixed term.

Pursuant to HSC 25200(c)(1)(D)(iii), DTSC is required to issue a final permit decision for renewals within one year after the end of the existing permit’s fixed term. If DTSC is unable to issue the renewal within that timeline, DTSC is required to submit a report to BES, pursuant to HSC 25200.25, that explains the reasons why the permit was not issued by the timeline and to propose a new permit decision timeline. Furthermore, DTSC is required to submit a request to BES to hold a hearing to present the report. BES would then accept or modify the new final decision proposed timeline.

DTSC considers permits that are issued within one year after the end of the existing permit’s fixed term to be a permit that is renewed on-time.

This metric measures DTSC performance in a given year. It shows what percentage of permit decisions are made on time out of all the permit decisions made in a year. The ultimate goal of this metric would be “100%” of permit decision made on time. Metric 1 and metric 2, when taken together, are an effective measure of DTSCs current performance and improvement over time. Note that this metric could be at 100% yet the “continued permits” metric could be 1 or more (because the decisions weren’t made in this year). That is why both metrics work together to measure performance.

BES Resolution: BES recommends keeping this metric as is, noting DTSC’s interpretation of ‘on-time’ aligns with the statute. However, BES requests information on permit decisions made prior to the statutory deadline for evaluation. The BES concurs that the goal should be 100% of permit decisions made on time.

Metric: Timely Permit Application Reviews

Intent: To track the permitting program’s ability to complete permit application reviews and publish decisions in a timely manner.

Data to report: Number of technical permit application reviews completed “on time” compared to total initial technical reviews completed (on-time initial technical reviews/total initial technical reviews completed).

Why it matters:

- Technical reviews are completed prior to draft and final permit decision.
- Technical review phase can be resource intensive often leading to permit decision delays.
- “On time” means technical reviews completed within 140 days, a time determined by DTSC to provide for subsequent permit decisions finalized by the due dates.
- The data will provide insight into permits most at risk of becoming continued, and tracks delays early in the process.

Additional Information Provided by DTSC: The permit renewal process undergoes 5 steps:

1. Pre-Application Phase
2. Administrative Review Phase
3. Technical Review Phase
4. Draft Decision Phase
5. Final Permit Decision Phase

The technical review phase is the most resource and time intensive phase of the permitting process. However, DTSC has worked to make this process more efficient (implementing process improvement methodologies such as Lean Six Sigma and Lean) and has been able to shorten the general process to under 140 days. As such, DTSC has determined that on time completion of a technical review for a permit application means that the technical review was completed within 140 days.

This is an important internal metric for DTSC to make sure we are on track to make permit decisions on time. Deviations from this timeline serve as an early alert that a project needs more attention or more resources.

BES Resolution: BES recommends retaining metric as is.

Metric: Supplemental Environmental Projects (SEPs)

Intent: To provide insight into the number of SEP applications and trends in the use of SEPs over time.

Data to report: The number of SEP applications and trend in the use over time will be determined by tracking:

1. Number of settled administrative and civil cases eligible for Supplemental Environmental Projects annually.
2. Number and total dollar amount of SEPs funded as part of the resolution of administrative and civil cases annually.
3. Number of applications received and evaluated for SEP eligibility annually.

Why it matters: SEPs increase opportunities for funding for tangible community benefit projects in vulnerable communities. Information will provide insight regarding (a) whether community outreach is needed to increase the number of SEP applications, and (b) whether facility owners are supporting the funding of SEPs when available.

Additional Information Provided by DTSC: SEPs are environmentally beneficial projects that a defendant in an enforcement case may voluntarily undertake in the settlement of an enforcement action in exchange for the reduction of a monetary penalty that would otherwise apply as a result of the violation(s). Funding a SEP does not absolve a defendant from taking corrective action to return to compliance. DTSC's SEP Policy is governed by official policy DTSC-OP-035.

Statewide outreach via social media and listservs will occur to encourage the public to submit SEP proposals.

BES Resolution: BES recommends retaining metric as is.

Metric: Compliance Rates for Violations Issued

Intent: To provide a deeper understanding of compliance across different violation types (Class 1, 2, and minor), issued to permitted and non-permitted facilities, in vulnerable and non-vulnerable communities.

This metric also assesses violation data in vulnerable communities to understand what, if any, differences exist in the effectiveness of enforcement activity in vulnerable communities.

Data to report:

1. Baseline number of violations by class that distinguishes violations issued to permitted or non-permitted facilities, and whether the facilities are in vulnerable or non-vulnerable communities.
2. Quarterly percent of return to compliance for each violation class.
3. Year to year analysis of return to compliance for each violation class.

Definitions:

- Return to Compliance Rate is the number of violations corrected to total violations issued
- Permitted Facility means a hazardous waste facility with a Treatment, Storage, Disposal Permit or Post-Closure Permit issued by DTSC
- Non-Permitted Facility means hazardous waste facility that includes but are not limited to generators, metal shredders, metal recyclers, transporters, household hazardous waste, universal waste, e-waste collectors, e-waste recyclers, and mercury collection sites that are regulated by DTSC
- Vulnerable Community means a community with a CalEnviroScreen Score greater than or equal to 70%

Why it matters:

- Three types of violations are issued - Class 1, Class 2, and Minor. Class 1 are the most serious types of violations that may pose a significant threat to human health or the environment.
- The return to compliance rate for each violation type indicates the effectiveness of inspection activities in improving compliance.
- Violation data in vulnerable communities helps understand what, if any, differences exist in the effectiveness of enforcement activity in vulnerable communities.

- Support long term goals for implementation of enforcement activities (HSC 25125.2(b)(7)(D))

Additional Information Provided by DTSC: “Class I violation” is defined in HSC 25110.8.5; “Class II violation” is defined in Section 66260.10 of Title 22 of the California Code of Regulations; “Minor violation” is defined in HSC 25117.6.

DTSC’s Strategic Plan [dashboard](#), Goals 2 and 3, has quarterly data on return to compliance for permitted and all facilities, including those in vulnerable communities.

The data will be further refined to include RTC data for Class I, Class II, and minor violations.

BES Resolution: BES recommends retaining metric as is.

Metric: Inspections Tracking

Intent: To track inspections as required by the RCRA grant through the USEPA Compliance Monitoring Strategy

Data to report: Percent of permitted facility inspections completed per fiscal year.

Why it matters:

- Facility inspections are the primary tool for monitoring compliance
- DTSC is required to conduct inspections at a frequency defined in USEPA’s RCRA grant program
- Data will inform whether DTSC is conducting the required inspections

Additional Information Provided by DTSC: DTSC consistently inspects all permitted facilities as required by the RCRA grant. The number of inspections conducted is confidential.

Facilities may be inspected multiple times and the frequency of inspections are influenced by:

- Fund Sources (RCRA grant), mandates (set by US EPA), agreements/implementation plans.
- Workplan type (permit type and onsite activities) have different cadences and frequencies.
- Collaborative efforts and initiatives (i.e., US EPA, CalEPA, or director priorities can increase inspection cadences at sites).

BES Resolution: BES recommends retaining metric as is, recognizing the need to maintain the confidentiality of inspection schedules. The board will seek aggregate data as a way to conduct an in-depth evaluation of inspection frequency in a way that maintains data sensitivity.