

ARB Supplemental Environmental Projects (SEP) Policy

When ARB resolves an air quality enforcement case, our primary goal is to ensure that the violator achieves and maintains compliance with air quality laws and regulations. In addition, the violator typically pays a monetary penalty to deter future violations and disgorge any economic benefit realized by the violator. These actions ensure that the violator does not benefit by his actions. In certain instances, supplemental environmental projects – SEPs – that mitigate the effects of the particular violation may be undertaken directly or funded to offset a portion of the civil penalties (or monetary settlements in lieu of civil penalties). SEPs are those projects used to offset traditional penalty amounts that are funded by the defendant and exceed regulatory requirements – i.e., they “supplement” the State’s current air quality efforts.

SEPs must:

- Be reasonably related to the original violation in terms of specific pollutants or specific communities affected,
- Not inure to the benefit of the violator, and
- Further ARB’s purpose of cleaning up the air by:
 - Reducing the total risk burden posed to public health,
 - Preventing future air quality problems beyond those addressed in current air quality programs, or
 - Improving the injured environment (including specific communities that were affected).

There are Four Categories of SEPs:

1. Pollution Prevention Projects: Projects that substantially reduce or prevent the generation of emissions by:
 - Reducing the use of certain polluting materials (by changing processes or substituting different fuels or materials), or
 - Applying different processes, such as closed-loop processes (reusing by-products in a way that keep the emissions out of the environment in perpetuity).
2. Pollution Reduction Projects: Projects that go substantially beyond compliance with air quality laws and regulations by reducing:
 - The emissions that would otherwise be generated,
 - The risk posed by the activity, or
 - The emissions earlier than required. Such an “accelerated compliance project” must result in significant, quantifiable pollution reduction.

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3. Environmental Restoration Projects: Projects that repair the damage done to air quality because of the violation and then goes beyond the repair to enhance the air quality in the vicinity of the violation.
4. Public Awareness Projects: Projects that underscore, for the regulated community, the importance of complying with environmental laws or disseminate technical information about complying with environmental laws. They include publications, broadcasts, or seminars aimed at correcting widespread or prevalent violations within an industry (e.g., a media campaign funded by the violator to discourage tampering with emission control equipment). Acceptable projects must:
 - Contribute directly to ARB's compliance and enforcement objectives,
 - Relate to the type of violation they are resulting from, and
 - Include a prominent statement that the project was undertaken as part of a settlement of an enforcement action.

Appropriate public awareness projects include:

- Contributions to fund research concerning the area of non-compliance,
- Participation in Cal/EPA's environmental Education Scholarship Program, or
- A "compliance school" for specific types of violations.

Projects that do not fall into one of the four enumerated categories may be considered for SEPs on a case-by-case basis.

Projects that are not allowed as SEPs for the purpose of settlements include:

- *General* educational or environmental awareness projects that are not specifically related to air quality,
- Projects that lack a nexus to the enforcement action,
- Studies with results that are not intended to be implemented by any party or utilized by the agency in developing air quality policy (e.g. the Children's Health Study and the California Regional Particulate Matter Study would be allowed since they contribute to the development of air quality policy), and
- Projects required by statute or regulation.