

# Draft Supplemental Environmental Projects Policy

Workshops and Community Meetings  
October 24, 2016 – November 2, 2016

Oakland  
Bakersfield  
Brawley  
El Monte  
Fresno



California Environmental Protection Agency  
 **Air Resources Board**

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## Outline

- Introduction
- Proposed Approach
- Proposed Policy
- Response to Comments
- Project Ideas and Proposals
- Next Steps

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# Introduction

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## ARB Programs Enforced

- Certification Requirements
- Mobile Source In-Use Rules
- Fuel Standards
- Stationary and Industrial Sources
- Consumer Products

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# Air Resources Board

Protecting air quality and public health through:

- Planning
- Regulation development and implementation
- Compliance assistance
- Training, and
- Enforcement

# ARB Enforcement

- Issue citations
- Impose administrative penalties
- Refer cases to prosecutors
- Settle cases

# What is a Supplemental Environmental Project (SEP)?

- SEP defined in Public Resources Code §71118
  - Violator “voluntarily agrees to undertake in settlement of the action and to offset a portion of their civil penalty”
- Environmentally beneficial project
- May offset up to 50% of penalty

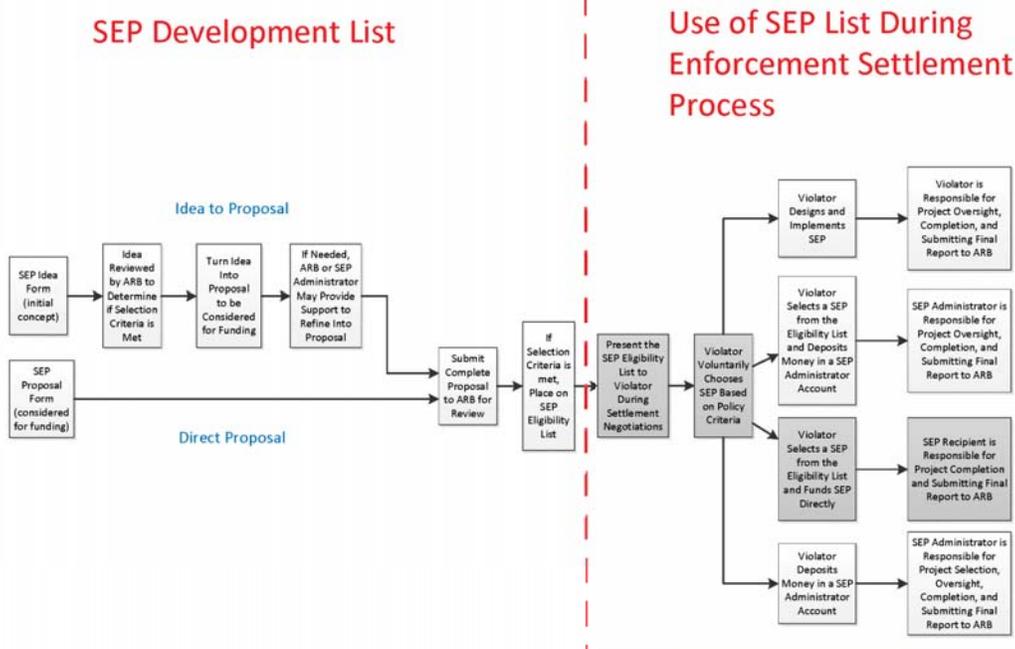
## SEP Penalty History

<u>Year</u>	<u>Total Civil Penalties Assessed</u>	<u>Allocated to SEPs</u>
2014	\$13,372,941	\$2,308,566
2015	\$10,397,660	\$1,633,900

# Proposed Approach

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## SEP Process



# SEP Administrator

- Aggregate smaller penalty amounts to fund eligible projects
- Responsible for:
  - Administering funds
  - Selecting and tracking projects
  - Reporting to ARB
- Considering possible SEP Administrators

# Nexus

- Nexus is the relationship between the violation and the proposed project
- A project has a relationship to the violation either through location or pollutant(s)
- Projects funded through case settlement will be matched by location and/or pollutant(s)

# Proposed Policy

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## List of Eligible SEPs

- ARB will develop a list of eligible SEPs that benefit disadvantaged communities through a public process
- List will be available on ARB's website
- Provide list to CalEPA annually

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# SEP Selection Criteria

- SEPs must meet all of the following criteria:
  - Furthers ARBs purpose by:
    - Reducing the risk burden posed to public health
    - Preventing future air quality problems, or
    - Improving the injured environment
  - Has a nexus to the violation either through location or pollutant
  - Does not benefit the violator
  - Goes above and beyond regulatory requirements

# Preference Criteria

- SEPs meeting any of these additional criteria are preferred:
  - Provide direct emissions or exposure reductions
  - Benefit disadvantaged communities
  - Provide community benefits
  - Provide multimedia (e.g. air, water, soil) benefits

# SEP Categories

- Pollution prevention and/or reduction
- Environmental restoration and protection
- Environmental education and compliance training
- Community monitoring
- Trans-Boundary
- Other

# The Role of the Violator

- Violator voluntarily agrees to a SEP
  - Select a SEP from the ARB SEP list
  - Deposit money in a SEP Administrator account
  - Design and implement a SEP

# Response to Comments from Previous Workshops

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## Summary of Comments

- Priority should be given to projects that:
  - Have a strong nexus to location
  - Include community involvement
  - Tie into existing programs
  - Have multimedia benefits, and
  - Have multiagency support
- Identify disadvantaged communities

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# Prior Workshop Questions/Comments

- Question: how is nexus defined?
- Response:
  - Nexus relates to the violation and is determined by location and/or pollutant, for example:
    - Reduces exposure in the specific community where the violation occurred, and/or
    - Reduces exposure to the pollutants involved in the violation.
  - Most of our violations have a statewide geographic nexus so most eligible SEPs will qualify for funding

# Prior Workshop Questions/Comments

- Comment: violators should not play a role in project selection.
- Response:
  - State law requires that entering into a SEP be a voluntary action taken by the violator.
  - ARB will be linking SEP projects by nexus to the violation and then giving a violator an appropriate choice of projects.

# Prior Workshop Questions/Comments

- Question: who is an eligible recipient?
- Response:
  - The project needs to meet SEP selection criteria and may also meet preference criteria, but the recipient can be anyone provided the project is eligible and does not benefit the violator.

# Prior Workshop Questions/Comments

- Question: how are projects prioritized?
- Response:
  - Projects would be selected by nexus to location and/or pollutants.
  - Preference criteria will be used if necessary

# Prior Workshop Questions/Comments

- Question: how will disadvantaged communities be identified?
- Response:
  - There are various ways to identify a disadvantaged community. CalEnviroScreen is one of several approaches we may use, but other evaluation methods will be considered based on community justification.

# Prior Workshop Questions/Comments

- Comment: groups with strong community connections should get preference.
- Response:
  - The draft policy provides preference for projects providing community benefits.

# Prior Workshop Questions/Comments

- Comment: ARB should provide technical assistance to turn ideas into proposals.
- Response:
  - We agree. Under our proposed approach, either ARB and/or the SEP Administrator would provide technical assistance, if requested.

# Prior Workshop Questions/Comments

- Comment: violator self-promotion should not be allowed.
- Response:
  - The proposed policy would not allow a SEP to benefit a violator.

# Prior Workshop Questions/Comments

- Comment: create a SEP advisory panel.
- Response:
  - With a robust public process, an advisory panel would not be needed.
  - ARB is committed to an annual public process to consult with community stakeholders and to develop a comprehensive SEP list.

# Prior Workshop Questions/Comments

- Comment: ARB needs to ensure a fair distribution of SEP selection between urban and rural areas.
- Response:
  - Our proposed approach would select projects by nexus criteria. Because so many violations have a statewide nexus, all areas of the state would be eligible for funding.
  - We will work to ensure a fair distribution of projects across the state.
  - We will be reporting on SEPs as part of our annual report to the Board, which provides the public an opportunity to comment about the distribution of projects.

# Project Ideas and Proposals

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## Received SEP Ideas/Proposals

- As a result of the previous workshops we received 33 SEP ideas and 3 SEP Proposals which include:
  - Air monitoring projects
  - Pollution reduction & outreach
  - Transportation improvements
  - School bus improvements
  - Asthma programs
  - Solar projects
  - Vegetation projects

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# Submitting SEP Ideas

- Please continue to submit your ideas.
  - Ideas can be submitted on a continual basis by filling out the online form: <https://www.arb.ca.gov/enf/sep/sep-idea-form.htm>
- By the end of the year, ARB is legally required to provide a list of SEP proposals to CalEPA under AB 1071.
- Submitted project ideas need to be turned into proposals.
- ARB will provide both ideas and proposals to CAIEPA, but only proposals can be funded.
- If needed, assistance may be provided to help turn SEP ideas into SEP proposals.

# Submitting SEP Proposals

- SEP proposals require the submittal of additional documentation, including:
  - Organization description & experience
  - Project description & timeline
  - Itemized budget
  - Emissions benefit description
- SEP proposals will also be accepted on a continual basis by filling out the online form:  
<https://www.arb.ca.gov/enf/sep/forms/sep-proposal-form-080916-vev.htm>

# Next Steps

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## Submitting Comments

- Please submit comments to the following email address: [SEP@arb.ca.gov](mailto:SEP@arb.ca.gov)

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# Board Hearing

- Board hearing end of this year/early next year to present the following:
  - Updated policy
  - Project ideas
  - SEP proposals
  - Role of SEP Administrators

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