Supplemental Environmental Projects Policy

December 8, 2016

California Environmental Protection Agency

Air Resources Board

Outline

- Introduction
- Current Supplemental Environmental Projects
- Community Engagement
- Proposed Policy and Process
- Summary of Comments
- Summary and Next Steps

ARB Enforcement

Field Enforcement and Investigation → Notice of Violation → Resolve Violation Through Mutual Settlement Process → Select SEP

- Goal: Compliance
- Most violations resolved by mutual settlement
  - Compliance
  - Penalties
  - Supplemental Environmental Projects

What is a Supplemental Environmental Project (SEP)?

- SEP defined in Public Resources Code §71118
  - Environmentally beneficial project
  - Violator "voluntarily agrees to undertake in settlement of the action and to offset a portion of a civil penalty."

Penalty and SEP History

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

AB 1071: New Requirements

- Solicit SEPs from disadvantaged communities through a public process
- Allow SEP to offset up to 50% of the penalty
- Provide a list of SEPs to CalEPA annually
- Consider nexus to location of violation
- Focus on projects in disadvantaged communities

Today's Goal

- Obtain Board's input and direction
  - Proposed SEP Policy
  - SEP Selection Criteria
  - Preference Criteria
  - SEP Project Types

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Current SEPs

- California Council on Diesel Education and Technology (CCDET)
- School Bus and Diesel Emission Reduction
- Foundation for California Community Colleges Small Engine Maintenance and Repair Courses SEP

California Council for Diesel Education and Training

- Consortium of six community colleges
- Trains next generation of diesel mechanics
- $456,400 was allocated to 6 colleges in 2015
- Funding allows colleges to purchase trucks and engines necessary to teach diesel classes
- CCDET also
  - Certifies opacity testers for ARB regulations
  - Trains violators to comply with opacity regulations
  - Conducts special projects

School Bus and Diesel Emission Reduction

- Established in 2011 to fund replacement filter cores for recalled Cleaire retrofit PM filters
- Provides funding for truck and bus projects that exceed regulatory requirements
- $1,147,500 in SEP funds generated in 2015

Small Engine Maintenance and Repair Training

- Established in 2014
- Enhances and improves small engine maintenance/repair courses at 3 California community colleges
- $30,000 SEP funds generated in 2015

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Extensive Outreach

- Staff attend monthly Environmental Justice Task Force meetings in:
  - Bayview / Hunters Point, Hanford, Fresno, Bakersfield, Los Angeles, Coachella, and Brawley
- Two series of SEP Workshops
  - Nine in August and September
    - Fresno, Hanford, Oakland, Bakersfield, El Monte, Coachella Valley, Brawley, Mecca
  - Five in October
    - Fresno, Oakland, Bakersfield, El Monte, Brawley

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SEP Policy Overview

- Five key elements of the SEP Policy
  - Public process to identify SEP proposals
  - Provide our SEP Eligibility List to CalEPA annually
  - Defines SEP selection and preference criteria
  - SEP Categories
  - Three ways a SEP can be funded

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
  - Detailed project proposal to include a scope of work, budget, timeline, and recipient qualifications
  - Does not benefit the violator
  - Goes above and beyond regulatory requirements

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)

Preference Criteria

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

SEP Proposals

- SEP Proposals require documentation including:
  - Organization description & experience
  - Project description & timeline
  - Itemized budget
  - Emissions benefit description
- SEP Proposals will also be accepted on a continual basis

Submitted SEP Proposals

- Received 14 SEP Proposals
  - Exposure reduction
  - Education and outreach
  - Air monitoring
  - Tree planting and community improvements
  - Health care support
- Currently evaluating SEP proposals for nexus and feasibility

Three Ways SEPs Can Be Funded

Present SEPs to violator after penalties are agreed upon

- Violator selects SEP from List and Fund Directly
- Violator pays SEP Administrator and Administrator Implements SEP
- Violator develops a SEP and Fund Directly

Violator Funds SEP Directly

- Violator can fully fund a SEP
- Violator selects a SEP from the Eligibility List established by ARB
- Pays SEP money directly to the SEP recipient
- Recipient is liable and responsible to ensure completion of the SEP
- Recipient is responsible for oversight, tracking and reporting to ARB.

Violator Pays SEP Administrator

- Violator deposits SEP money into a SEP Administrator's account
- Administrator disburses the funds to the recipient
- Administrator is responsible for oversight, tracking and reporting to ARB
- Recipient is responsible for ensuring project completion

Violator Develops and Implements a SEP

- Violator designs and implements a SEP themselves
- Violator is responsible for ensuring SEP completion
- Violator is responsible for oversight, tracking and reporting to ARB.

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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 multiagency support
- Assemble an advisory panel
- Violators should not play a role in project selection

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Summary and Next Steps

- Proposed policy meets AB1071 requirements
- Seeking Board support to:
  - Finalize and implement the policy
  - Provide a project list to CalEPA
  - Fund new SEPs
  - Annually update the Board on the implementation of the SEP program