

San Diego County Air Pollution Control District Supplement Environmental Project Policy

A Supplemental Environmental Project (SEP) is an environmentally beneficial project that a facility or source agrees to voluntarily undertake under a settlement of an enforcement action. In return, the District agrees to reduce the monetary penalty that would otherwise apply as a result of the violation(s). A SEP represents an opportunity to facilitate a direct air pollution benefit as a form of civil penalty. The District recognizes that many residents live amidst multiple sources of air pollution, and that some people and communities are more vulnerable to the effects of pollution than others. The District believes it is important that its programs are appropriately directed toward improving the environmental health and vitality of impacted and disadvantaged communities.

The determination of accepting a proposed SEP is within the District's sole discretion and may depend on the specific facts of a particular case. Even though a project may appear to satisfy all provisions of this policy, the District may decide that a SEP is not appropriate for a particular enforcement matter.

SEP Proposal Guidelines

The purpose of a SEP is to improve public health, prevent or reduce pollution, enhance environmental protection and environmental compliance, and/or bring public awareness to neighborhoods most burdened by environmental harm. A SEP can include but is not limited to an environmental clean-up, air pollution reduction, air pollution monitoring, or public outreach that focuses on the elimination or reduction of air contaminant emissions. SEP proposals must meet the following requirements:

1. Provide environmental or public health benefits that remediates or reduces environmental or public health impacts.
2. Allow the amount of the SEP to be a portion of the settlement penalties.
3. Be technically, economically, and legally feasible
4. Go beyond federal, state, and local requirements.
5. Never financially benefit the facility, source, or its functions.
6. Not be used for a facility or source to come into compliance with the District's, or another government agency's statutory or regulatory requirements.
7. Exceeds the cost to come into compliance with District Rules and Regulations.
8. Not delay the timing of compliance requirements of District Rules and Regulations, nor may it alter an obligation for a return to compliance expeditiously.

To submit a SEP Proposal, please complete the [District SEP Proposal Form](#). For more information about this process, please review the [SEP Guidelines to Apply](#).

Eligible SEPs

A proposed SEP must also satisfy the requirements of at least one of the categories below in addition to the other requirements established in this policy. These categories do not apply to the improvements of the processes within the operations of the facility or source that are already required to be in compliance with the District's or another government agency's statutory or regulatory requirements.

Public Health

A public health project provides diagnostic, preventative, and/or remedial components of human health care related to the actual or potential damage to human health caused by the violation. This may include epidemiological data collection and analysis, medical examinations of potentially affected persons, medical monitoring, medical treatment, health fairs, rehabilitation therapy. Public health SEPs are acceptable only when the project primarily benefits the population harmed or put at risk by the violations.

Pollution Prevention

A pollution prevention project reduces the generation of pollution of any hazardous or toxic substance being released into the environment. Source reduction may involve modifications to equipment, technology, processes, or procedures; reformulation of products; substitution of raw materials; or improvements in housekeeping, maintenance, training, inventory control, or other operational and maintenance procedures.

In all cases, for a project to meet the definition of pollution prevention, there must be an overall decrease in the amount and/or toxicity of pollution released to the environment, not merely a transfer of pollution among media.

Pollution Reduction

A pollution reduction project results in a decrease in the amount and/or toxicity of any hazardous substance, pollutant, or contaminant being released into the environment by an operating business or facility. This may include increasing the capture or control efficiency of an existing source.

Environmental Protection

An environmental protection project enhances the condition of the ecosystem or immediate geographic area adversely affected. These projects may restore or protect natural environments (such as ecosystems) and fabricated environments (such as facilities and buildings). This category also includes any project that protects the ecosystem from actual or potential damage resulting from the violation; improves the overall condition of the ecosystem; protects endangered species; or remediates facilities and buildings by removing or mitigating contaminated materials, provided such activities are not otherwise legally required.

Increased Environmental Compliance

Projects to increase environmental compliance may include trainings or technical support to members of the regulated community or the public to identify, achieve, or maintain compliance with applicable statutory and regulatory requirements or to reduce the generation, release, or disposal of pollutants beyond legal requirements. For example:

1. The facility may consider contracting with an expert to develop and implement procedures to increase compliance. Potential projects may include producing a seminar directly related to correcting widespread or prevalent violations within the industry of the facility or source; or
2. The facility may consider supporting community-based environmental compliance projects, which may include support of community-based violation reporting networks, community task forces, trainings, forums, or projects that promote community-based environmental enforcement and reduction of adverse environmental impacts.

Other Projects

This category includes projects determined by the District to have public health or environmental benefit and that do not fit within one of the categories above, but otherwise fully follow all other provisions of this Policy.

Proposals that are NOT Eligible under the SEP Program

A facility or source may not be eligible to qualify for a SEP based on the following:

Compliance History. The overall number, frequency, and severity of past violations demonstrate a clear disregard for San Diego APCD rules and regulations, or;

Response to Violation. Following receipt of the Notice of Violation, the facility or source fails or refuses to acknowledge the violation, mitigate the harm, and/or cooperate with the District in investigating or resolving the matter.

Settlement Agreement

The Supplemental Environmental Project (SEP) settlement agreement must be designed to produce the greatest air quality benefit possible and must benefit the public and/or the environment.

A SEP agreement is only possible after the facility or source has come into compliance. The cost or effort taken to achieve compliance must not be considered to be part of the SEP agreement. Each agreement will be drafted by the District and designate in writing:

1. Agreements by the Facility or Source
2. Agreements by the District
3. Terms or Conditions of the Agreement
4. A completion or installation date
5. Increments of progress, if applicable.

If you have questions about these guidelines or would like further information about Supplemental Environmental Projects, please contact apcdsba@sdcounty.ca.gov or 858-586-2650.