




<b>TITLE: Supplemental Environmental Projects (SEP)</b>		
<b>Effective Date:</b>  May 13, 2021	<b>Approved by:</b>   Amy Roberts, Division Manager <b>Legal Review: May 10, 2021</b>	<b>Contact reference:</b>  Angela Thompson Program Manager

**BACKGROUND AND PURPOSE**

To further the District's mandate to achieve and maintain air quality standards and protect public health, the District enforces federal and state regulations and local rules. The District has the authority to take enforcement actions against companies or individuals who violate those rules and regulations. Typically, violators pay a civil penalty developed under the District's Board adopted Mutual Settlement Program Guidelines.

In some instances, violators may offset a portion of a civil penalty by using a Supplemental Environmental Project (SEP). SEPs can be beneficial to communities and help directly fund local projects that can provide environmental or public health benefits. The District SEP program aims to be inclusive and transparent by incorporating a public project submittal process. The District will compile approved SEPs and allow violators to select SEPs that meet certain eligibility requirements and further District priorities and air quality goals.

**GENERAL POLICY**

The District has considerable discretion in approving SEPs for project eligibility and final project selection provided the project meets all eligibility requirements. SEPs must further environmental and public health goals for Sacramento communities. SEPs are solicited through a public process. The violator is responsible for the completion of the SEP and all required conditions outlined in their settlement agreement. Any funds not used toward completion of an approved SEP must be remitted to the District.

**Eligibility Requirements**

SEP Application Eligibility

All proposed SEPs should result in significant and quantifiable or qualitative benefits to either public health or the environment. SEPs must provide direct reduction of either emissions or exposure or increase public awareness and knowledge about air quality. Ideally, projects will further the goal of cleaning the air by reducing the risk and potential burden of air pollution on the public, preventing future air quality problems, or improving the environment.

Projects must be feasible, and the completion of the project must be tangible. Projects are considered ineligible if they are not technically, economically, or legally feasible or, if by their nature, they are impractical to execute and extend beyond the District's resources to provide adequate oversight. SEPs must (1) reduce emissions or exposure of air pollutants or increase public awareness and (2) must

benefit a District priority community. District priority communities are the “medium” priority communities and above identified on the Sacramento Metropolitan Utility District (SMUD) Sustainable Communities Resource Map or a designated AB617 community that has been selected under the District's Community Air Protection Program.

The project must address one or more of these project categories:

- Pollution Prevention or Reduction: Prevent or reduce air pollution or greenhouse gas emissions
- Environmental Restoration and Protection: Improve or restore the quality of the environment
- Environmental Education or Compliance Training: Provide assistance to educators, schools, and community groups to conduct training and public awareness campaigns aimed at the public and the regulated community
- Community Monitoring: Provide tools to be used by trained members of the public for data acquisition and enhancement of existing air quality monitoring stations
- Other: Considered on a case-by-case basis if there is a demonstrated and substantial benefit to health or the environment

#### Project Selection for Violator

The District will provide a list of approved SEP proposals. The violator must pick a project that has a nexus to the pollutant at issue in the violation or to the location of the violation. SEPs cannot fulfill a statutory or regulatory requirement and cannot directly benefit the violator.

### **GENERAL PROCEDURE**

#### Public Project Submittal Process

All proposed SEPs must be submitted to the District in writing using the District’s SEP application. SEP applications will be accepted through a public solicitation process during discrete application periods. Applications will not be accepted after the solicitation closing date.

SEP applications will contain the following:

- A complete description of the project
- A description of the SEP categories the project addresses
- A description of the expected air quality benefits
  - Expected reductions in air pollution should be fully described and substantiated
  - When possible, a quantification of the expected air pollution reduction achieved
- List of project costs and projected timelines and completion date(s)

The Project Administrators (SSD Leadership) will review applications to determine project eligibility and confirm they meet the SEP Eligibility Requirements. The Project Administrators may reject specific project elements, including contractors, consultants, and recipients, based on experience, capacity or fitness to perform the project.

Once the project has been approved, the project will be added to the list of eligible SEP projects on the SEP website, and the applicant will be notified. If the project was not approved, the applicant will be notified by the Program Administer and told the reason their project was not accepted.

### Implementing a SEP

Once the District has made a settlement offer to the violator, the violator may request to use a SEP as part of the settlement agreement. Up to 50% of the penalty amount may go to fund a SEP. The violator may choose a project from the SEP list provided by the District. The District may opt to open a new solicitation period to include additional eligible projects. The violator must select a specific SEP from the final SEP list within 30 days after the District provides the final SEP list.

The District will approve or deny use of the SEP in writing within 30 days after the violator notifies the District of its selection. The District will notify the SEP recipient that their project has been selected for funding and confirm they would like to proceed.

If approved, the SEP requirements, project details and conditions will be detailed in a settlement agreement between the District and the violator.

### Violator Responsibilities

A settlement agreement between the District and the violator will outline the terms of the SEP agreement.

The violator is responsible for tracking all funds provided to the SEP recipient. All SEP related funds will be transferred directly from the violator to the SEP recipient. It is the violator's responsibility to ensure the SEP recipient successfully completes the project.

The violator is responsible for providing regular status updates of the approved SEP project to the District until the project is completed in accordance with the schedule established in the agreement. The reports must detail funds expended to date, progress achieved, and other project milestones outlined in the settlement agreement.

The violator will submit a final report to the District upon project completion to confirm that all requirements of the settlement agreement have been fulfilled. The settlement agreement will be considered closed when the final project completion report has been received and approved by the District.

Any funds allocated in the settlement agreement that are not utilized will be remitted to the District and applied towards the original settlement amount. If the project cannot be completed and the District cannot approve an extension or alternate scope of work, the violator will be liable to remit sufficient funds to the District to satisfy the full amount of the original settlement agreement.