

# An Introduction to Supplemental Environmental Projects



Colorado Department  
of Public Health  
and Environment

## What is a SEP?

Supplemental Environmental Projects (SEPs) are a means by which penalties for environmental violations may be mitigated by directing funds toward environmentally beneficial projects. In all settlements of environmental enforcement actions, the Colorado Department of Public Health and Environment (the department) requires regulated entities to achieve and maintain compliance with all applicable regulations. All settlements include appropriate monetary penalties related to the environmental damage and financial gain the regulated entity received as a result of the violation. In some instances, regulated entities may mitigate a portion of their penalty by committing to implement a SEP. SEPs are projects that benefit either the environment or public health which a violator agrees to undertake in settlement of an enforcement action, but that the violator is not otherwise legally required to perform.

A media nexus is not required for SEPs. For example, an air violation settlement may include a SEP to benefit water quality. However, projects with a geographic nexus to the violation are given preference. A SEP should typically benefit the area or community adversely affected by the violation(s). The department does recognize that a facility's operations may also have environmental and public health impacts outside of the immediate geographic area. Whether the department decides to accept a proposed SEP as part of a settlement is purely within its discretion.

## Types of SEPs

There are three types of SEPs:

- **First Party SEPs** – When the regulated entity proposes to implement a SEP within its own facility. These projects typically include a

mitigation ratio of 1.5:1 or greater. For example, if the total cost to implement a SEP is \$15,000, the entity may receive up to \$10,000 in penalty mitigation. Mitigation ratios will be determined on a case-by-case basis depending on overall environmental or public health benefit and the extent of benefit to the regulated entity. An entity cannot receive SEP credit for a previously completed project or for a project that is already budgeted to take place. In addition, an entity may not receive SEP credit for projects that it has made a prior commitment to undertake.

- **Third Party SEPs** – A donation to a third party for the implementation of a SEP. These projects typically include a mitigation ratio of 1:1. SEP donations are not tax deductible. An entity also cannot receive SEP credit for third party projects that it made a prior commitment (voluntary or otherwise) to fund.
- **First Party SEP to Benefit a Third Party** – At times, the department may allow a regulated entity to implement a project that will benefit a third party. This may include a donation of services or products. The mitigation ratio may be as high as 1:1, but will be determined on a case-by-case basis.

## Category of SEPs and Example Projects

Below is a list of the seven categories of SEPs that the department considers along with examples of projects in each category that the department may approve. Written department approval must be obtained prior to the implementation of a SEP idea in order to receive credit that will offset a penalty.

1. **Pollution Prevention** – Any practices which reduce the use of hazardous substances or the

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amount of any pollutant or contaminant prior to recycling, treatment or disposal, and reduces the hazards to public health and the environment associated with the use, release, or both of such substances, pollutants or contaminants.

Pollution prevention SEP examples may include:

- Replacing a solvent-based cleaning system with an aqueous system.
- Replacing HVLP paint equipment with electrostatic equipment.
- Purchasing and installing a Solvent Ventilation Recovery System.
- Purchasing a paint recycling unit.
- Substituting less hazardous raw materials to replace or reduce solvents or other constituents such as lead and chlorinated compounds.
- Replacing high energy demand systems with energy efficient systems. (ex. lighting retrofit)
- Installing renewable energy systems including small scale wind, solar PV, solar thermal, geothermal and biomass.
- Converting fleet vehicles to alternative fuel vehicles such as hybrids and CNG.
- Donating to a local government or nonprofit to implement a commuting program designed to encourage commuters to reduce vehicle miles traveled.
- Funding a program to recycle gas-powered lawn equipment and incentivize the purchase of new electric lawn equipment.
- Donating to a local government or nonprofit to incentivize energy efficiency measures for local residents. (ex. rebates for home insulation or energy star appliances)

2. **Pollution Reduction Projects** - A pollution reduction project is defined as a project that goes substantially *beyond compliance* with permit or regulatory limitations to further reduce

the amount of pollution discharged into the environment.

Pollution reduction SEP examples may include:

- Reducing the discharge of pollutants through more effective end-of-pipe or stack removal technologies.
- Recycling of residuals for use as raw materials in production off-site, thereby reducing the need for treatment, disposal, or consumption of energy or natural resources.
- Donating to a local Household Hazardous Waste Collection Program.
- Funding a school district to develop an inventory of chemicals and purchase a computerized chemical management and inventory system.
- Funding a free community electronics recycling collection event.
- Donating to a local government, school district or nonprofit to implement or expand a recycling and/or composting program.
- Donating to a local government or nonprofit to provide incentives to residents to exchange old uncertified woodstoves for EPA certified woodstoves, pellet stoves or natural gas inserts.
- Implementing a Low Impact Development approach to site design and storm water management that seeks to reduce downstream impacts by using the landscape as a natural filter. (ex. Bio-retention, rain gardens, green roofs, porous pavement).
- Donating to a local school district or government agency to install diesel retrofit devices for public bus fleets or for the purchase of new CNG buses.
- Funding a local fire station for emergency planning and preparedness activities and/or monitoring equipment for use when responding to hazardous material spills.
- Making secondary containment upgrades, where not otherwise required, to contain

spills and allow leaks to be more easily detected.

3. **Environmental Restoration and Protection** - The objective is to repair damage done to the environment beyond any need to remediate the damage done by the violation. Cross-media projects are a preferred option for this type of project.

Environmental restoration and protection SEP examples may include:

- Constructing or restoring a wetland or prairie.
- Developing a conservation program to protect habitat critical to the well-being of a species or ecosystem.
- Purchasing and managing a watershed area as an open space buffer zone to protect sensitive species or drinking water supply.
- Donating of land or funds for conservation easements to a conservation organization.
- Stabilizing a stream bank or restoring a stream.
- Eradicating a non-native plant species in a conservation area.
- Creating or restoring habitat for an endangered or threatened species.
- Donating funds to remediate and redevelop a Brownfield site.

4. **Environmental Assessments** - A regulated entity may agree to examine its operations to determine if it is causing any other pollution problems or can run its operations better to avoid future violations. These audits go well beyond standard business practice.

Environmental assessment SEP examples may include:

- Implementing an ISO 14001-certified Environmental Management System.

- Conducting a Pollution Prevention/Waste Minimization Assessment.
- Conducting a comprehensive energy audit or donation to a third party to perform energy audits for local residents.
- Implementation of recommendations from the above assessments and audits.

5. **Environmental Education and Training** - Environmental Education Projects are intended to improve environmental behavior, raise the public's awareness of actions it can take to prevent pollution, and promote environmental sustainability. Environmental Training Projects provide necessary training and technical support to identify, achieve, and maintain compliance with applicable regulatory requirements; avoid violations; and, go beyond compliance by reducing the generation, release or disposal of pollutants beyond legal requirements.

Environmental education and training SEP examples may include:

- Donating funds for hazardous materials training for local fire departments and other special response teams.
- Donating funds to schools or non-profits for environmental education and/or outreach activities.
- Donating funds to a third party to conduct industry-wide seminars directly related to correcting widespread or prevalent violations within an industry.
- Donating funds to a third party to organize a conference on pollution prevention solutions for compliance in a particular sector.

6. **Public Health** - A public health project provides preventive, screening, diagnostic, therapeutic health care or education related to actual or potential threats to human health.

Public health SEP examples may include:

- Donating funds to a third party to operate and maintain a health clinic serving low

income and minority communities and sensitive populations.

- Donating funds to a program to conduct lead testing in at-risk populations, provide lead inspections, and conduct abatement in target housing.
  - Donating funds for lead health screening equipment to schools and local public health departments.
  - Assessing drinking water quality for migrant farm worker facilities and purchasing equipment necessary to provide safe drinking water.
  - Donating funds to support a waste pharmaceutical take-back collection program.
  - Providing digital thermometers in exchange for mercury containing ones.
7. **Other** - Facilities may propose other types of projects as long as those projects meet all additional requirements of a SEP as described in the department's Final Agency-wide Supplemental Environmental Projects Policy (SEP Policy).

### I'm Interested in Implementing a SEP, What Do I Do Next?

Discuss the possibility of including a SEP during a settlement conference with your department enforcement case person. It is also recommended that you review the department's SEP Policy for more detailed information regarding SEPs. The full policy may be found on-line at: <http://www.cdphe.state.co.us/oeis/sep/>

A written SEP proposal is required before the department may formally approve the SEP. You may download a SEP Proposal Form from the SEP website listed above.

The department's SEP Coordinator may be able to assist you through this process and help answer general SEP-related questions. The coordinator also maintains a list of specific third party SEP ideas that you may be interested in reviewing.

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