

Bullet Points on NJDEP's Supplemental Environmental Project (SEP) Interim Policy

Goal:

- Maintain deterrence for non-compliance while encouraging better behaviors from others resulting in net environmental benefits that would not have occurred otherwise.

SEP Definition:

- An environmentally beneficial project that a respondent voluntarily agrees to perform as a condition of settling an enforcement action. A SEP is an activity that the violator would not otherwise have been required to perform, and in which the public or the environment is the primary beneficiary.

Interim Policy Highlights:

- During settlement discussions C&E staff is encouraged to communicate with regulated entities about SEPs and their benefits.
- A SEP may have a direct or indirect relationship with the underlying violation, statute, and geographic area impacted in order to bring about meaningful environmental improvement.
- SEPs are to advance Department goals: with specific attention to reducing the environmental impact on overburdened communities or enhancing the Barnegat Bay.
- All SEPs are to include concrete and measurable environmental benefits.
- Acceptance of a SEP as part of a settlement agreement is the discretion of the Department.
- After the final penalty settlement amount has been determined, the penalty is then adjusted to account for the cost of the SEP. For each dollar spent on the SEP, one dollar can be deducted from the penalty amount, up to 75% (50% for WPCA) of the total penalty agreed to in the settlement. (eg, 25% of final settled amount must be paid, 50% for WPCA violations).
- The respondent may incidentally receive some indirect or direct benefit from conducting the SEP and these benefits to the respondent may be reduced from the amount of penalty offset by the SEP.
- The settlement agreement should accurately and completely describe the terms of the SEP, including specific actions to be performed by the respondent and provide for a reliable means to verify that the respondent has completed the project.
- C&E representatives are to contact other programs in the Department for technical guidance on any component of the SEP.

Next Steps:

- External stakeholder feedback on Interim Policy.
- Educate C&E on Interim Policy & implement.
- Continue to coordinate with DEP programs on opportunities to advance goals through SEPs.
- Collect lessons learned from policy implementation to inform future rule development.