



## **NJDEP Supplemental Environmental Project (“SEP”) Policy**

### **Who is affected by this Advisory?**

Any person, business, or other entity, which is, or may be, subject to penalty liability for violations of NJDEP requirements.

### **Why is DEP issuing this Advisory?**

In 2011, NJDEP implemented an Interim SEP Policy. SEPs are voluntary environmentally beneficial projects responsible entities may complete, if approved at the Department’s sole discretion, to reduce their penalty liability. Through the resolution of enforcement actions, the Department has approved dozens of SEPs, which bring direct, concrete, and measurable environmental benefits to communities.

The Department has now implemented a final policy entitled “Standard Operating Procedures for Incorporating Supplemental Environmental Projects into Settlement Agreements and Administrative Consent Orders,” which became effective on February 15, 2024.

In part, this new policy:

1. Bolsters the requirement that SEPs have a nexus to the underlying violation at issue in the enforcement action and maintains the strong commitment that SEPs must be for the benefit of the public through concrete and measurable environmental benefits;
2. Furthers the Department’s pursuit of climate resilience in requiring the Department to consider the extent to which climate change would impact a SEP’s performance and encourages SEPs that would improve the resilience of vulnerable communities;
3. Continues the Department’s commitment to Environmental Justice by strongly encouraging responsible parties to consider community input in the development of a SEP, including the potential for a full penalty reduction (within statutory restrictions and within the enforcement program’s discretion) if a responsible party completes a detailed Community Needs Assessment as part of their SEP proposal; and
4. Encourages completion of approved SEPs by providing for additional stipulated penalties if an approved SEP is abandoned by a responsible party.

Responsible parties who may wish to reduce their penalty liability should review the full SEP policy in detail. The possibility of reducing the penalty liability through a SEP does not, in any way, compromise a responsible party’s obligation to achieve full compliance in relation to the underlying violations.

# COMPLIANCE ADVISORY

## What should I do?

Responsible parties must submit a full and complete SEP proposal during any settlement negotiations so that the project can be fully articulated in the corresponding Settlement Agreement or Administrative Consent Order. To facilitate this, responsible parties are encouraged to discuss potential SEPs with the Department's enforcement staff early in the process.

Further, in developing a SEP proposal, responsible parties are strongly encouraged to conduct community outreach to identify local priorities that will enable a SEP to achieve the maximum positive impact to the community that was harmed by the underlying violation.

The Department's Community Collaborative Initiative may be able to assist with community outreach in specific communities: <https://dep.nj.gov/ccci/>

The responsible party bears the burden of demonstrating that the SEP proposal complies with the policy.

If the Department determines that the proposed SEP fails to comply with the policy, or if the nature of the violation or the conduct of the responsible party does not warrant a SEP, then the SEP proposal shall be denied. Responsible parties are encouraged to discuss SEPs with the Department's enforcement staff prior to completing a proposal to determine if the Department is amenable to considering a SEP. Approval or denial of SEPs is strictly within the Department's discretion as part of settlement negotiations.

## Who should I contact with questions?

Any questions related to specific enforcement actions or SEP opportunities should be referred to the Department staff listed as the point of contact on any Notices of Violation, Administrative Orders and Notices of Civil Administrative Penalty Assessment, or other enforcement documents issued by the Department.

General SEP Policy related inquiries may be referred to:  
Joe Traum, Enforcement Coordinator  
Office of Enforcement Policy  
Joe.Traum@dep.nj.gov

## Where can I get more information?

The full policy is available for review at the following link:  
<https://www.nj.gov/dep/enforcement/docs/final-sep-policy-2-15-2024.pdf>

**The following web sites can be accessed for additional information regarding this advisory:**

- Supplemental Environmental Projects (SEPs): <https://www.nj.gov/dep/enforcement/seps.html>

This advisory is intended to be a summary explanation. It does not include all potentially applicable requirements. If you have any questions related to compliance with this initiative, please contact the programs listed above.