



Supplemental Environmental Project (SEP)

Most actions against businesses, individuals or organizations for failure to comply with the environmental laws are resolved through settlement agreements. A Supplemental Environmental Project (SEP) is a new environmentally beneficial project that a company agrees to undertake when settling an enforcement action. The SEP must improve, restore, protect, or reduce risks to public health and/or the environment beyond that achieved by compliance with applicable laws.

When enforcing environmental laws and regulations, the State of Illinois has the authority to incorporate a SEP into the settlement agreement with a company that is separate from and, in addition to, correction of the violation. The company may receive some penalty offset for a SEP. Whether or not to incorporate a SEP as part of the settlement is voluntary for the violator. The violator may also suggest a SEP. The acceptance of a SEP does not alleviate corrective responsibility.

Where do SEPs come from and what do they do?

Illinois EPA created the Idea Bank to get ideas from the public for potential SEPs that are designed to improve the environment. Potential projects are submitted to the Idea Bank by local communities, public agencies, school districts, community groups, and other organizations. Past SEPs funded include: environmental education programs; emission reductions in public transportation; air, water, and land quality projects; and hazardous waste collections. A SEP furthers the Illinois EPA's goal of protecting and enhancing public health and the environment. It does not include the activities a violator must take to return to compliance with the law.

Characteristics of SEPs

Because SEPs are part of an enforcement settlement, they must meet certain legal requirements.

- There must be a relationship between the underlying violation and human health or environmental benefits that will result from the SEP.
- A SEP must improve, protect, or reduce risks to public health or the environment, although in some cases a SEP may, as a secondary matter, also provide the violator with certain benefits.
- The SEP must be undertaken in settlement of an enforcement action as a project that the violator is not otherwise legally required to perform.

Why consider a SEP as part of a case settlement?

There are very few cases of intentional disregard for the environment. Many times incorporating a SEP or a series of SEPs into the settlement can turn a potentially negative action into one that becomes beneficial to the affected parties or communities.

A SEP can potentially benefit the violator by allowing them to create an environmental improvement in the community they do business in that is "above and beyond" what would be required by statute or regulation. The improvement would not exist but for the action of the violator.

A SEP could be potentially Income Tax beneficial (check with your tax accountant).

(This document is informational only and does not represent an offer for settlement nor obligate the violator to consider a SEP. To find out more about SEPs go to: <http://www.epa.state.il.us/enforcement/sep>)