

Supplemental Environmental Projects (SEPs) Subcommittee	
Issue No.	1
Key Issue	<u>Continuance of Supplemental Environmental Project (SEP) program:</u> Should TCEQ continue the SEP program? If so, should TCEQ encourage the use of SEPs or merely make them available without encouraging their use?
	<u>Basis:</u> Public Comment
Other Subcommittees Reviewing Issue	
Recommendation	The TCEQ should continue the SEP program. Public comments identify SEPs as an innovative alternative in resolving enforcement cases. Environmental projects not otherwise undertaken can be funded. Funds can be targeted to provide environmental benefits in the geographical location of enforcement offense. SEPs can focus funds towards environmental priorities. SEPs often “settle” the case.
	TCEQ should better communicate the SEP program’s objectives and the environmental benefits achieved by the program.
	<u>Basis:</u> Interest has been shown by legislators in the past; many like SEP projects and like to see them in their district.
	<u>Implementation Impacts:</u> Continuation of the SEP program itself will have no impact. But, better communication of the SEP program and some changes to the SEP Policy as recommended in Issues 2 - 7 will require implementation. After the Commission makes its decision in October, a small workgroup should be convened to revise the SEP policy and work on the communication issues. This group should include representatives from: Agency Communications, FOD, Enforcement, Legal, Small Business, Internal Audit, and OPA. An aggressive timeline of drafting the revisions within 30 days, and then 30 days for briefings is envisioned
Other Alternatives	Discontinue the SEP program. Public comment identifies a perception of lenient enforcement, not enough oversight, not enough public relations benefit, complicates enforcement process, not punitive, and no environmental benefit. No more SEPs might resolve these perceptions. Administrative penalties would go into General Revenue and not stay in community.

Supplemental Environmental Projects (SEPs) Subcommittee	
Issue No.	2
Key Issue	<u>Supplemental Environmental Projects (SEPs) discussions:</u> When should SEP discussions begin with the respondent during the enforcement process?
	<u>Basis:</u> Public Comment

Other Subcommittees Reviewing Issue	Enforcement Process, Communications
Recommendation	<p>SEP discussions should begin when enforcement is inevitable. The process should occur with discussions between the investigator and entity/person upon noting:</p> <ul style="list-style-type: none"> • any category A violations and where knowledge is present of other repeat violations as identified in the current Enforcement Initiation Criteria (EIC). • anytime High Priority Violations (HPV) are noted either by the region investigator from a file review or the enforcement coordinator as the result of an enforcement referral • a violation warrants development of any order requiring administrative penalties. <p>Detailed communications from the TCEQ Enforcement Division staff should occur at the time of order development. Additional follow up and further discussion could/should occur with the regulated entity by the Small Business Local and Government Assistance program staff where allowed.</p> <p>If implemented, staff in the Regional Office or in Litigation Division must be able to communicate the SEP process to the regulated entity. A publication and/or form that is geared towards a prospective SEP applicant should be developed. It would communicate deadlines for a decision on whether to pursue a SEP, perhaps within 60 days of the inspection date. The Communications Subcommittee should develop methods or means of conveying this information.</p> <p>The regulated entity should be given a cut off or expiration period whereas if they have not selected an SEP method or project, this option is no longer available.</p> <p><u>Pros:</u> Early intervention or sharing of the SEP process would allow the violator to make decision early on, and enforcement process would be smoother. Cut off would help process too.</p> <p><u>Cons:</u> More time consuming up front for staff. Cut off may also result in fewer SEPs being done.</p> <p><u>Basis:</u> Public comment states that SEP information is sometime inconsistent and does not occur until late in the process, which causes delays. Early intervention or sharing of the SEP process would allow the violator to make decision early on, and enforcement process would be smoother. Cut off would eliminate late comers into the SEP process which drags enforcement out.</p>
	<p><u>Implementation Impacts:</u></p> <ul style="list-style-type: none"> • The investigator (FOD), enforcement coordinator (Enforcement Division) and litigation attorney work plans will require some work load deviation due to enhanced SEP communication and documentation. • SEP follow up considerations will require manpower efforts from Small Business and Local Government Assistance program which may require work load adjustment. • TCEQ should communicate with both EPA and LBB due to the potential effects on completing work plans. • No costs anticipated or identified.

Other Alternatives	<p>Force offender into making an early decision. Penalty offset would be dependent on the timing of the request for a SEP and by the type of benefit of the SEP. A SEP would receive an offset of 1:1 for a request made early in the enforcement process. A request made at the end of the enforcement process would require an offset of more than 1:1 to reduce the chance of an entity delaying the process.</p> <p><u>Pros:</u> Early participation in the SEP program will reduce the time needed to resolve enforcement cases</p> <p><u>Cons:</u> Someone deciding late in the process will have to pay more than another entity with a similar case.</p>
Notes	<p>This recommendation should be harmonized with other recommendations relating to issuance of field citations.</p>

Supplemental Environmental Projects (SEPs) Subcommittee	
Issue No.	3
Key Issue	<p><u>Supplemental Environmental Projects (SEPs) process:</u> How can the process of developing and approving a SEP be more efficient?</p> <p><u>Basis:</u> Public Comment</p>
Other Subcommittees Reviewing Issue	Enforcement Process
Recommendation	<p>Efficiency can be gained by additional planning activities. SEP projects should be designated, listed by region, and advertised via the TCEQ internet site. Designated projects should relate to the overall enforcement program area such as air, water and waste projects associated with the violations. By identifying allowable SEP projects, the regulated community could have projects which have been authorized previously for enforcement deferral and thus eliminate the need for searching for projects or inventing new projects each time. Timing relative to project implementation would be expedited.</p>

	<p>In addition to designated projects, new projects should be allowed to be proposed by the regulated entity, but the regulated entity should be required to identify their project for TCEQ review within 60 days of known formal enforcement. In turn, this would allow a determination if the project benefits an environmental need. Regional inspectors should be utilized in discussing SEPs early in the process (as described in Key Issue 2).</p> <p>Enforcement and region staff should have some input to the proposed SEP projects. It is suggested that an internal panel be developed for review of new candidate projects for designation. Field Ops investigator committees (already in existence) can be utilized for SEP project development. Additional staff for the panel should represent other areas of the agency so that all agency priorities are brought forward.</p> <p>A process should be developed for candidate projects screened by the panel to be periodically presented to the E.D. and Commissioners for approval for project designation. Additional SEPs that come up in the interim could be tentatively approved by the E.D. until they are approved by the Commission.</p> <p>The SEP Program should look into the possibility of partnering and leveraging resources with other state agency funds such as those managed by Secretary of State, Office of Rural Community Affairs, or Texas Water Development Board.</p> <p><u>Pros:</u> A more expedited process appears to involve more staff resources up front, but allows the enforcement process to be more efficient. More environmental projects are accomplished with expedited process.</p> <p><u>Cons:</u> Less flexibility for SEP projects not on the list. Would require a temporary shift of effort in FOD committees.</p>
	<p><u>Basis:</u> Projects in an environmental media, associated with the violation are encouraged by the Texas Water Code, TCEQ guidance, and public input suggests this preference. Lists of approved projects hastens process. Involvement by enforcement, Regional staff, and others in project review would increase workload, but would improve efficiency of cases by getting the word out sooner. Only one FTE in Austin is currently dedicated to informing interested parties about SEPs.</p>

	<p><u>Implementation Impacts:</u></p> <ul style="list-style-type: none"> • Enhance the current TCEQ SEP Web site that lists region-specific approved SEPs and add the capability to search SEPs by area or media. • A SEP review panel needs to be created which screens and reviews both current and newly identified SEPs, which in turn are presented to the ED and Commissioners for approval. • New SEPs identified by the regulated community would require review by a selected panel to identify and consider environmental need. Should this panel be configured from existing FOD program committees, provisional shift in efforts would need to be made. • If the effort results in work load impacts on field investigators and enforcement coordinators, TCEQ should communicate changes to EPA and LBB. • A communication team, including program staff and IGR staff, would need to be created to partner and leverage resources with other state agencies. In turn, the efforts and accomplishments of this team would communicate those agreements and overlap to committees within SEP development and implementation.
Other Alternatives	
Notes	There is some overlap with Issue 2 and Issue 8.

Supplemental Environmental Projects (SEPs) Subcommittee	
Issue No.	4
Key Issue	<p><u>Type and location of Supplemental Environmental Projects (SEPs):</u></p> <p>A) Does a SEP need to benefit the environmental media (air quality, water quality, etc.) affected by the violations? If not, what should be allowed ?</p> <p>B) Should the SEP be performed exclusively in the community where the violation occurred? If not, are there other location restrictions that should apply?</p> <p><u>Basis:</u> Public Comment</p>
Other Subcommittees Reviewing Issue	Communications

<p>Recommendation</p>	<p>It is recommended that existing policies identifying project preferences be continued. Direct benefit SEP projects within the affected community for the same environmental media associated with the violation should be allowed a 1:1 penalty offset. Other projects relating to a different environmental media or that has an indirect benefit should still be allowable, but would be allowed only with a greater offset ratio. See also Key Issue 2 which describes strategies to involve local priorities. See also Key Issue 8 describing other recommended offsets and restrictions.</p> <p><u>Pros:</u> addresses the majority of comments that SEP benefits are intangible. <u>Cons:</u> less flexibility than current system.</p> <p>It is further recommended that the environmental benefit and purpose of the SEP be routinely conveyed to the public. Also, TCEQ should better communicate that the projects are being monitored. TCEQ should consider other requirements, i.e. submittal of pictures to verify what work is done. The Communications subcommittee should develop methods of better conveying this information.</p> <p>The current definition of community is “county”. It is recommended that the SEP Guidance improve the definition of community, considering both urban and rural settings, to better ensure preferential offset ratios for SEP projects closer to the area where violations occurred. For instance, the definition might reflect a radius.</p> <p><u>Basis:</u> Location and proximity of project to community where violation occurred are important if the public is to see a benefit from SEPs. This may improve community perceptions of the punitive aspects of TCEQ enforcement.</p>
	<p><u>Implementation Impacts:</u></p> <ul style="list-style-type: none"> • More outreach to public so they know violators are paying locally. May require more efforts from Agency Communications, Enforcement, Litigation, OPA, and SBEA to publicize information. • Outreach to public will need to be increased, limited travel budgets may hamper these initial efforts to publicize the “new enforcement” process.
<p>Other Alternatives</p>	<p><u>Alternative 1:</u> SEP projects could be allowed for any environmental media so long as it addresses an environmental priority. TCEQ must determine if a project addresses environmental priorities. Just because there is a local project that can be done or expanded does not make it an environmental priority. Only high priority environmental SEPs should be considered.</p> <p><u>Alternative 2:</u> Consideration would be given to media violated, if all priorities are relatively equal or not defined for a community.</p> <p><u>Pros:</u> Simplify the SEP process. <u>Cons:</u> Lack of public perception of benefit of SEP</p> <p><u>Alternative 3:</u> Only allow Direct Benefit SEPs. <u>Pros:</u> More benefit to the environment. <u>Cons:</u> Fewer SEP projects done.</p>
<p>Notes</p>	<p>TWC §7.067 states that the Commission should give preference to projects that benefit the community in which the alleged violation occurred.</p>

Supplemental Environmental Projects (SEPs) Subcommittee	
Issue No.	5
Key Issue	<p><u>Outreach and input on Supplemental Environmental Projects (SEPs):</u></p> <p>A) Do the public and regulated entities understand how SEPs are used in TCEQ enforcement?</p> <p>B) Are there ways to better inform the public and regulated entities of SEP outcomes?</p> <p>C) Should selection of SEPs consider citizen, community, agency, or regulated entity priorities? If so, how?</p>
	<u>Basis:</u> Public Comment
Other Subcommittees Reviewing Issue	Communications
Recommendation	<p><u>Issue A</u> There is some understanding of the concept of SEPs. However, the level of understanding varies between large companies, small businesses, local governments, community groups, and individuals. We need to gather more specific information at the beginning of the process regarding the environmental benefit of the project from the respondent. We need to better publicize and distribute information regarding SEPs, especially with the benefits and cost.</p> <p><u>Issue B</u> TCEQ should also require publicizing the results and distributing a report once a SEP has been completed.</p> <p><u>Issue C</u> Presently, Regional Directors are contacted by the SEP program to receive input from Region on an as needed basis. Experienced regional staff are knowledgeable experts on environmental problems in their area and should be contacted on a more regular basis. A process to institutionalize their input on SEPs and priorities is needed.</p> <p>There is no direct avenue for public input into development of a specific SEP. However, the enforcement process is subject to public comment and that is opportunity for input. Also, Commission consideration and designation of proposed SEP projects can be another opportunity (see issue 3).</p> <p><u>Pros:</u> Better understanding by all of the environmental benefits of a SEP and the actual cost of performing a SEP.</p> <p><u>Cons:</u> More staff resources required to develop “better” information.</p>

	<p><u>Basis:</u> Public comment states that there is not a clear understanding of the SEP program or the outcome of SEPs. Development of easy to understand documents that explain the SEP process will increase public awareness and understanding of the program. Requiring more information from regulated entities regarding specifics of a SEP and publicizing that information may result in greater public understanding of the program.</p> <p><u>Implementation Impacts:</u></p> <ul style="list-style-type: none"> • Additional staff resources may be needed to revise the information currently available and to develop new information. Additional staff resources may be necessary to review and monitor the information submitted. • Some method to publicize the results of SEPs and distribution of the results of completed SEPs should be developed. Workload of agency communication staff and program staff developing this information may be affected. • Incorporating input from regional staff into the development of a SEP ensures appropriate SEPs are developed but this may impact the workload of the region and SEP staff. • Providing for public input in the development of “pre-approved” SEPs may make the program more understandable and accepted. However, it would take some staff resources to develop an appropriate process and then maintain it.
<p>Other Alternatives</p>	<p>Promote development of third party SEPs within community organizations.</p> <p>Find a way to make outreach part of the agreed order.</p> <p><u>Pros:</u> Publicize the program in a cost effective proactive way. Get public input.</p> <p><u>Cons:</u> Potential delay in process because input requires more time and staff resources for public notice and responding to comments. Attempts to involve the public in other areas have not been successful, i.e. citizen collected evidence.</p>
<p>Notes</p>	<p>Although the team did develop some ideas regarding publicizing and distributing information regarding SEPs, the Communications Subcommittee should develop any outreach plans and materials.</p> <p>Some of our ideas for their consideration are:</p> <ol style="list-style-type: none"> 1. Make information available to local officials and other parties. How is this project helping the community ? 2. Establish a state map, by TCEQ regions, and by county; make it interactive on Web site with the ability to pull down projects available in each area. Legislative staff can be briefed on SEP’s in their area on occasion. 3. Add section about SEPs to agency’s annual enforcement report. 4. TCEQ can add more info on its Web site.

Supplemental Environmental Projects (SEPs) Subcommittee	
Issue No.	6
Key Issue	<p><u>Monitoring and evaluation of Supplemental Environmental Projects (SEPs):</u></p> <p>A) How can we quantify the environmental benefit from a SEP?</p> <p>B) Should quantifying benefit be included as part of a reporting requirement? If so, how can TCEQ verify the benefit?</p> <p>C) Is TCEQ’s current oversight of SEPs achieving the desired results?</p> <p><u>Basis:</u> Public Comment and State Auditor’s Report</p>
Other Subcommittees Reviewing Issue	
Recommendation	<p>Recommended improvements to address each issue include the following:</p> <p><u>Issue A:</u> As a standard part of each SEP proposal, the entity proposing to perform the project should be required to estimate the environmental benefits that are expected to result from the performance of the project. The SEP staff should review this information and take it into consideration in determining whether the benefit is sufficient to merit the inclusion of the SEP in an enforcement order.</p> <p><u>Issue B:</u> As a standard part of each SEP completion report, the entity performing the project should be required to quantify the environmental benefit obtained through the project, and provide any necessary documentation to support these facts. To verify the benefit claimed, the SEP program could include a verification checklist in its risk assessment procedures.</p> <p><u>Issue C:</u> The current system provides assurance that the projects are performed and that the costs are supported by appropriate documentation and fall within the SEP Policy requirements. The current system could be improved by providing a mechanism for quantifying and verifying the environmental benefit obtained from SEPs.</p> <p>Recent improvements include:</p> <ul style="list-style-type: none"> • All SEP tracking sheets have been updated using the current system • OLS has identified all fields that need to be added to the database • Data entry has improved and achieved consistency between the information maintained in the tracking sheet and that reflected in commission orders • OLS has developed a uniform reporting format (a Crystal Report to provide tracking capability and third-party tracking sheets using Legal Files) <p>Further efforts are on-going, including:</p> <ul style="list-style-type: none"> • Designing and adding fields to the data system • Determining how we can use Legal Files to attach SEP agreements to the database to make reviews of SEP cases more efficient

	<ul style="list-style-type: none"> Setting up additional Crystal Reports to provide the "Pending SEPs for Required Reporting" log that has been requested (OLS is on track to complete this item by 9/1/04) <p>Internal Audit confirmed that the SEP program requires standardized reporting time frames for 3rd party SEPs of every 90 days.</p>
	<p><u>Pros:</u> Addresses commenters concern that SEP benefits are not tangible enough and that SEPs are an easy way out for Respondents. Requiring quantification will assist the agency and the public in evaluating proposed SEPs and monitoring the benefit of completed SEPs</p> <p><u>Cons:</u> Will require additional work by SEP participants and 3rd party organizations that propose SEPs. These recommendations would be additional tasks and potentially more FTE's would need to be assigned to adequately address.</p> <p><u>Basis:</u> The Subcommittee reviewed public comments and the State Auditor's recent audit report. In addition, the Subcommittee worked with the SEP program to get their opinion on how best to quantify the environmental benefit of SEPs while considering the resources available to the program.</p> <p><u>Implementation Impacts:</u></p> <ul style="list-style-type: none"> SEP policy will need to be modified to require submission of estimates. SEP agreements and third-party agreements will need to be modified. SEP risk assessment procedures will need to be modified to include a verification checklist. Litigation may work with Internal Audit on procedures. The SEP program will need to develop a reporting format and coordinate with SBGLA, Pollution Prevention, and other parts of the agency to assist in developing prototype estimates of environmental benefits for various projects.
Other Alternatives	<p>Review of SEP projects should be done by Small Business and Local Government Assistance (SBGLA) where possible. If the regulated entity does not fit within SBGLA criteria, FOD staff should perform review. Should the SEP not be conducted in accordance to agreed upon terms, the regulated entity should be reported to the Enforcement Division. Entities conducting SEP projects in a timely and specific manner to agreed upon terms should be reviewed as above and reported as compliant with this portion of the enforcement ordering provisions.</p> <p><u>Pros:</u> Better oversight of projects, better utilization of SBLGA.</p> <p><u>Cons:</u> Could be a significant resource issue for SBLGA and FOD, (approx. 120 SEPs /yr).</p> <p>The SEP program could attempt to quantify environmental benefits of particular SEPs, either itself or through the use of outside resources.</p> <p><u>Pros:</u> Less reliance on those performing the projects</p> <p><u>Cons:</u> The information may not already exist. The SEP program has limited resources to conduct such a review and no resources to contract out those responsibilities.</p>
Notes	<p>The monitoring and evaluation of SEPs will be facilitated by implementation of Issue 3, designating SEPs. This will reduce or eliminate the need for the recommended reviews.</p>

Supplemental Environmental Projects (SEPs) Subcommittee	
Issue No.	7
Key Issue	<p><u>Supplemental Environmental Projects (SEPs) classification system:</u></p> <p style="padding-left: 40px;">A) Should TCEQ have a classification system for non-direct or mixed benefit projects? If so, what should be appropriate ratios for such SEPs?</p> <p style="padding-left: 40px;">B) Should restrictions limit SEPs to only direct benefit?</p> <p><u>Basis:</u> Public Comment and State Auditor’s Report</p>
Other Subcommittees Reviewing Issue	
Recommendation	<p>The benefit from an SEP, whether direct or indirect, should be verifiable and quantifiable.</p> <p><u>Issue A:</u> Yes, there should be a classification system. The following three direct benefit project types and their corresponding ratios should remain unchanged.</p> <ul style="list-style-type: none"> • Environmental restoration projects that go beyond repair to the enhancement of the environment in the vicinity of the violating facility. • Projects to fund public works for a neighboring municipality or county to benefit the environment in a way that is beyond ordinary compliance with the law. • Projects to clean up illegal municipal and industrial solid waste dumps.
	<p>We should consider adding the following to the list of project types that directly benefit the environment:</p> <ul style="list-style-type: none"> • Projects meeting Proposition 2 pre-approved list that reduce/prevent pollution . Entities cannot already be required to meet Prop 2 (so no tax break involved- state this in an Agreed Order). <p><u>Issue B:</u> Some indirect projects should be allowed with less favorable ratios. Also, some indirect projects should be prohibited or curtailed.</p> <p>Three currently used project types considered to have an indirect benefit component) include:</p> <ul style="list-style-type: none"> • Pollution prevention and/or reduction projects; • Technical assistance to other TCEQ-regulated entities faced with economic and/or technical hardships; • Environmental education and/or engineering assistance to members of the regulated community or the public.

These indirect project types need to be modified so that the results are quantifiable or eliminated as approvable projects.

Pollution prevention and/or reduction projects:

- Eliminate the pollution *prevention* projects since the benefit off-site or in a nearby community is difficult to quantify.
- However, keep the *reduction* projects and establish baselines in order to better track the amount of pollutants reduced. Following this issue table is a list of easily quantifiable projects supplied by SBEA/PPIA.
- Technical assistance to other TCEQ-regulated entities faced with economic and/or technical hardships:
- This type of SEP should be removed since there is no guarantee that the assistance will produce either equipment or techniques that serve to reduce or prevent pollution.

Environmental education and/or engineering assistance to members of the regulated community or the public:

- Eliminate the education and engineering assistance to the regulated community when it is difficult to quantify any benefit received from either effort.
- Use SEP monies to provide education for the public and environmental groups. Forge partnerships with environmental groups to augment TCEQ staff for monitoring trouble areas within the state. Education dollars are better spent on enhancing the awareness of the public with organized efforts developed through established pro-environment groups. Raising the public's environmental awareness is an indirect benefit that may lead to sustained direct benefits over time.

Ratios recommended for each of these project types follow:

- Consider rating pollution reduction projects at 2:1 normally; if the project has immediate benefits to the environment consider a ratio of 1:1.
- Consider rating all educational efforts to the public and environmental groups at 3:1.
- Mixed project (educational & direct benefit) ratio of 2:1
- Consider rating monitoring done by established environmental groups at 2:1.

Pros: Ability to easily quantify project benefits by using an established measuring tool.
Ability to generate meaningful information on project results for external customers.

Cons: Restrictions to certain types of projects could limit participation.

	<p><u>Implementation Impact:</u></p> <ul style="list-style-type: none"> • The SEP process will be streamlined by having fewer types of projects available. Having fewer types should remove some of the present ambiguity in the approval process. • Tools, mechanisms or instruments to quantify SEP benefits need to be developed. Most of the remaining project types will not be difficult or complex to measure effectively. • Staff time spent in quantifying project results should be reduced by having the proper measuring tool available. These amounts would be compared to the estimate originally provided by the respondent. • The SEP program should develop operating agreements with agency technical teams (e.g., Air, Water, Waste, Regional Offices) to provide assistance during project site reviews. Actual physical observation of projects is an essential element in the monitoring process for the SEPs. The SEP program will work with Internal Audit to refine its Risk Assessment procedures to address the issues raised by this Review and the recommendations coming from it. • During the approval process for revisions to the SEP Guidance (involving the ED/Commission), make a decision on the ratio for a specific project. This should include any justification for either a higher or lower ratio.
<p>Other Alternatives</p>	<p>Quantifying emission reductions (especially of mobile emissions), is difficult. Added mixed project ratio. Don't allow any SEPs that are less than a 1:1 ratio (direct benefit). Allow local governments under enforcement to accept SEP money in order to attain compliance.</p> <p><u>Pros:</u> Small governmental entities could receive assistance for compliance. Addresses commenters issues on non quantifiable SEPs.</p> <p><u>Cons:</u> May be viewed as restrictive and inflexible.</p>
<p>Notes</p>	<p>Force offender into making early decision. Penalty offset would be dependant on the timing of the request for a SEP and by the type of benefit of the SEP. A SEP would receive an offset of 1:1 for a request made early in the enforcement process. A request made at the end of the enforcement process would require an offset of more than 1:1 to reduce the chance of an entity delaying the process.</p> <p>Some overlap with Issues 4 and 8.</p>

Supplemental Environmental Projects Issue 7 Attachment A

Community Outreach/SEP projects with measurable environmental improvement

Pollution Prevention/ Material Use Reduction

•**Electronics take back program.** Collection of mercury-containing electronics - computers, cell phones, industrial monitoring equipment etc. Collect materials or waste from public, industrial neighbors.

Environmental Indicator:

Reduction of mercury released to the environment,
Reduction of solid waste/Increased recycling and reuse,
Reduction of toxic pollutants released to the environment

• **Energy efficiency retrofits.** Assist small businesses, regional governments, communities by installing energy efficient lighting, air conditioning; or installing renewable energy devices- solar, fuel cell, or wind units.

Environmental Indicators:

Air Quality improvements,
Reduced energy consumption .
Money saved

Environmental Education Programs

•**Teaching Environmental Science (TES).** Support the TES program- a two-week intensive college credit for educators.

Environmental Indicators:

Increased environmental literacy (measured in the number of teachers attending; number of students taught by the teachers);
Environmental projects implemented by teachers at their schools after taking a TES course

•**Targeted Customer-Supplier or Small Business workshops.** Support outcome based environment training on specific environmental issues. For instance, an energy efficiency program could include methods to measure the impact of changes that are implemented.

Environmental Indicator

Air quality improvements
Reduced energy consumption
Money saved

Product Stewardship / Innovative Technology

•**Implement a Product Stewardship/ Environmentally Preferred Purchasing Program at school /campus:** Assist a school or campus in purchasing environmentally friendly, energy efficient products or setting up a recycling / reuse program.

Environmental Indicators

- Air quality improvements
- Solid waste reductions
- Increased energy efficiency
- Decreased exposure to toxic materials
- Money saved

•**Implement a Product Stewardship Demonstration Program at school /campus:** Assist in funding and implementing an innovative technology at a school or campus, such as a wetlands water treatment system, use green building technologies.

Environmental Indicators

- Air quality improvements
- Solid waste reductions
- Increased energy efficiency
- Decreased exposure to toxins
- Money saved

Supplemental Environmental Projects (SEPs) Subcommittee	
Issue No.	8
Key Issue	<p><u>Offset amounts and restrictions for Supplemental Environmental Projects (SEPs):</u></p> <p>A) What percentage of the penalty should be eligible for offset by a SEP?</p> <p>B) Should SEP requirements or restrictions be different based on the environmental impact of a violation?</p> <p>C) What restrictions should there be for SEPs?</p> <p><u>Basis:</u> Public Comment, Subcommittee Input and Review of Current Policy</p>
Other Subcommittees Reviewing Issue	
Recommendation	<p>The following offsets and restrictions are recommended:</p> <ul style="list-style-type: none"> • The existing policy of allowing up to a 100% offset of penalty for local governments should be continued if the SEP has a direct environmental benefit, otherwise up to a 50% offset should be allowed. • A business should be allowed to have up to a 100% offset if the respondent is a small business and if the SEP has a direct environmental benefit, otherwise the existing policy of up to a 50% offset should be retained. • Allow local governments (whether or not currently in enforcement) to be a third party beneficiary from a SEP to address compliance issues; i.e., non-compliant public water supply (need new pressure tank). • No on-site SEPs should be allowed. • For indirect benefit SEPs, tie the percentage of offset to the ratio: i.e., 2:1 ratio=50% offset, 3:1 ratio=33% offset. For example, consider a case where a city is assessed a penalty of \$10,000 and allowed to conduct a SEP. If the city chooses an indirect benefit SEP with a 2:1 ratio and the city carries out a SEP with a cost of \$10,000, this would offset \$5000 of the penalty. The city would also pay a \$5000 penalty. • Anyone who does not comply with the technical requirements of their SEP agreement, is not eligible for future participation in the SEP program. <p><u>Pros:</u> Communities would see a correlation between a violation and a violator. Drives direct benefit SEPs which are more quantifiable and provide direct benefit to the environment while still providing the regulated entity the ability to choose the type of SEP they wish to participate in. Communities are not supportive of on-site SEP projects even when the benefit is quantifiable</p>

	<p><u>Cons:</u> Communities and groups that indirectly or infrequently have an impact on the environment would be excluded. . Fire departments and schools would be affected by this action. Lose the ability to do some projects that are environmentally beneficial. Decrease the number of SEPs.</p> <p><u>Implementation Impacts:</u></p> <ul style="list-style-type: none"> • Potentially more funding would be available to improve the environment with the additional offset and by allowing respondents to assist local governments in addressing compliance issues • Simplification of the SEP levels for offset and restrictions will increase efficiency of the SEP process • Auditing of an SEP is simplified with tighter restrictions
Other Alternatives	<p><u>Alternative 1.</u> No additional offset requirements regardless of situation</p> <p><u>Pro:</u> Simplifies the SEP process</p> <p><u>Cons:</u> Would make all enforcement actions equivalent regardless of impact on the environment Public does not support this type of SEP as can see no benefit to affected community.</p> <p><u>Alternative 2.</u> No restrictions on projects for SEPs.</p> <p><u>Pros:</u> Expands the number of eligible projects Simplifies SEP process</p> <p><u>Con:</u> No mechanism to ensure a project makes a difference in the community that was affected.</p> <p><u>Alternative 3:</u> Actual releases should require an SEP with more offset.</p> <p><u>Pro:</u> The greater the harm to the environment from the violation, the more severe the penalty</p> <p><u>Con:</u> Could reduce the number of violators choosing to perform SEPs</p>
Notes	<p>In this review, allowing small entities to offset their penalty by funding projects that would return a facility to compliance was considered. For instance, such a policy might be a tool to address a small city in financial hardship. But, TWC §7.067 currently prohibits such SEPs. It states “the Commission may not approve a project that is necessary to bring a respondent into compliance with environmental laws, that is necessary to remediate environmental harm caused by the respondent’s alleged violation, or that the respondent has already agreed to perform under a preexisting agreement with a governmental agency.”</p>