

Appendix VI-5 Evaluation Checklist for Supplemental Environmental Projects

SUPPLEMENTAL ENVIRONMENTAL PROJECTS EVALUATION WORKSHEET

Program: _____ Evaluator: _____

Case: _____ Date: _____

A. Description

B. Compliance

- | | | |
|---|------------------------------|-----------------------------|
| 1. Has compliance with the applicable regulation been achieved? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 2. Has all harm caused by the violation been remediated? | <input type="checkbox"/> yes | <input type="checkbox"/> no |

C. Environmental Management Hierarchy:

- | | | |
|---|------------------------------|-----------------------------|
| 1. Does the SEP involve pollution prevention techniques? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 2. Does the SEP reduce the amount of waste generated? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 3. Does the SEP recycle wastes generated? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 4. Will the SEP be conducted in a community where environmental equity is an issue? | <input type="checkbox"/> yes | <input type="checkbox"/> no |

D. Definition and Key Characteristics:

- | | | |
|--|------------------------------|-----------------------------|
| 1. Does the SEP improve public health or the environment at large? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 2. Does the SEP protect public health or the environment at large? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 3. Does the SEP reduce the risks to public health or the environment? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 4. Has DES had an opportunity to shape the scope of the SEP | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 5. Has the SEP not commenced until after DES identified the violation? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 6. Is the SEP's activity required by any federal, state or local regulation? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 7. Is the SEP's activity required by any injunctive relief or settlement? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 8. Will the SEP's activity be a requirement two or more years in the future? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 9. If yes to No. 8, is there a regulatory benefit to the SEP? | <input type="checkbox"/> yes | <input type="checkbox"/> no |

E. Legal Guidelines:

- | | | |
|--|------------------------------|-----------------------------|
| 1. Is there a relationship between the violation and the SEP? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 2. Does the SEP remediate or reduce the environmental or public health impact caused by the violation? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 3. Will the SEP reduce the likelihood of similar future violations? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 4. Does the SEP advance at least one objective of the regulation violated? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 5. Does DES manage or control any of the funds used for the SEP | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 6. Does DES retain authority to manage or administer the SEP? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 7. Does the SEP description include what the project is? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 8. Does the SEP description state where the SEP will be conducted? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 9. Does the SEP description state when the SEP will be done? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 10. Has the monetary value of the SEP been agreed upon? | <input type="checkbox"/> yes | <input type="checkbox"/> no |
| 11. Is the SEP something that DES itself is required by statute to do? | <input type="checkbox"/> yes | <input type="checkbox"/> no |

F. Categories

Public Health

1. Is the SEP related to the actual or potential damage caused by the violation? ☐ yes ☐ no
2. Check off the public health components provided:
 - ☐ diagnostic
 - ☐ preventive
 - ☐ remedial
 - ☐ other: _____
3. Is the SEP's benefit directed only to the affected population? ☐ yes ☐ no

Pollution Prevention/Reduction

1. Does the SEP reduce generation of waste via "source reduction"? ☐ yes ☐ no
2. Check off all applicable components of source reduction:
 - ☐ equipment or technology modifications
 - ☐ process or procedure modifications
 - ☐ reformulation or redesign of products
 - ☐ substitution of raw materials
 - ☐ improvements in housekeeping
 - ☐ maintenance
 - ☐ training
 - ☐ inventory control
 - ☐ other operation and/or maintenance procedures
 - ☐ conservation or increased efficiency in the use of energy
 - ☐ conservation or increased efficiency in the use of water or other materials
3. Does the SEP result in a transfer of pollutants to another media? ☐ yes ☐ no
4. Does the SEP reduce the amount or toxicity of pollution released? ☐ yes ☐ no
5. Check off all applicable components of pollution reduction
 - ☐ recycling ☐ containment
 - ☐ treatment ☐ disposal

Environmental Restoration & Protection

1. Does the SEP go beyond repairing the damage caused by the violation? ☐ yes ☐ no
2. Does the SEP enhance the condition of the ecosystem or immediate geographical area adversely affected by the violation? ☐ yes ☐ no
3. Does the SEP involve remediation of ☐ facilities ☐ buildings

Assessments and Audits

1. Is the assessment or audit otherwise available as injunctive relief? ☐ yes ☐ no
2. Check off which type(s) of projects are involved in the SEP
 - ☐ pollution prevention assessments
 - ☐ site assessments
 - ☐ environmental management system audits
 - ☐ compliance audits
3. If a compliance audit is part of the SEP, is the defendant a small business? ☐ yes ☐ no
4. Will the assessment/audit be done at:
 - the same facility where the violations occurred? ☐ yes ☐ no
 - at another facility owned by the violator? ☐ yes ☐ no
 - at a different facility in the same ecosystem? ☐ yes ☐ no
 - at a different facility in the same geographic area? ☐ yes ☐ no

Environmental Compliance Promotion:

1. The SEP will provide to other members of the regulated community:
☐ training
☐ technical support
2. Check off all of the following which apply:
☐ identify, achieve and maintain compliance with regulatory requirements
☐ avoid committing violations
☐ reduce generation, release or disposal of pollutants beyond regulatory requirements
3. Does the SEP impact the same regulatory program where the violation occurred? ☐ yes ☐ no
4. Will compliance in the affected sector be significantly advanced by the SEP? ☐ yes ☐ no

Emergency Planning and Preparedness:

1. The SEP will assist: ☐ state, ☐ local response/planning entities
2. The SEP will provide:
☐ equipment
☐ training
3. Is the primary impact of the SEP in the LEPC district where the violation occurred? ☐ yes ☐ no
4. Is the primary impact of the SEP state-wide? ☐ yes ☐ no
5. Is the SEP non-cash assistance? ☐ yes ☐ no
6. Did the violation involve reporting requirements under EPCRA or other regulatory requirements? ☐ yes ☐ no

Non Acceptable SEPs:

1. Is the SEP a general education or public environmental awareness project? ☐ yes ☐ no
2. Does the SEP contribute to environmental research at a college or university? ☐ yes ☐ no
3. Is the SEP unrelated to environmental protection? ☐ yes ☐ no
4. Does the SEP fail to include a commitment to implement the results of studies or assessments? ☐ yes ☐ no
5. Is the SEP funded by federal or state loans, contracts or grants? ☐ yes ☐ no

G. Calculation of the Final Penalty:

Non-Financial Impacts

Does the SEP

1. significantly and quantifiably reduce discharges of pollutants? ☐ yes ☐ no
2. significantly and quantifiably reduce public health risks? ☐ yes ☐ no
3. significantly and quantifiably protect/restore ecosystems? ☐ yes ☐ no
4. develop and implement innovative processes, technologies etc.? ☐ yes ☐ no
5. If the response to No. 4 above is yes, check off all of the following which apply
☐ the SEP reduces generation and/or release of pollutants
☐ the SEP conserves natural resources
☐ the SEP protects and/or restores ecosystems
☐ the SEP protects endangered species
☐ the SEP promotes compliance
6. mitigate damage or reduce risk to low income or minority populations? ☐ yes ☐ no
7. reduce emissions or impacts to more than one media? ☐ yes ☐ no
8. develop and implement pollution prevention techniques/practices? ☐ yes ☐ no

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SEP Costs

1. Does the SEP provide a positive cash flow for the violator? yes ☐ no ☐
2. Is the violator: a small business? yes ☐ no ☐
- government agency? ☐ yes ☐ no ☐
- non-profit organization? ☐ yes ☐ no ☐

*If the answer to any of the choices in No. 2 is yes, the maximum SEP mitigation allowed is 100%,
if the answer to all choices in No. 2 is no, the maximum SEP mitigation allowed is 80%*

3. Capital costs (equipment, buildings, etc.) \$ _____(3)
4. One-time nondepreciable costs (seminar, land purchase, removal costs, etc) \$ _____(4)
5. Annual operations costs or (savings) \$ _____(5)
6. Total SEP costs: (add lines 3, 4, and 5) \$ _____(6)
7. Mitigation allowed: _____%(7)
8. SEP cost mitigation allowed (multiply line 6 by line 7) \$ _____(8)

Penalty

- The economic benefit of the violations \$ _____(1)
2. Gravity component of the penalty \$ _____(2)
3. 10% of the gravity component: \$ _____(3)
4. 25% of the gravity component: \$ _____(4)
5. Add line _____ and line 3 \$ _____(5)
6. **Minimum** cash penalty (enter the greater amount of line 4 or 5 here) \$ _____(6)
7. Does the penalty assess an amount equal to or greater then line 6? yes no