

SUPPLEMENTAL ENVIRONMENTAL PROJECTS (SEPS)

PUTTING FINES TO WORK CLOSER TO HOME

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INTRODUCTION

When your plant or facility is found to be in violation of certain environmental regulations, you may be assessed a monetary penalty, or fine. This fine is paid to the state's General Revenue Fund and is not directly applied toward environmental remediation. But another option under state law allows you to put your fine to work closer to home and help improve the environmental quality of your region. This option is called a Supplemental Environmental Project.

What's a Supplemental Environmental Project?

A Supplemental Environmental Project, or SEP, allows you to fully comply with the enforcement process while voluntarily taking a positive step toward enhanced protection and improvement of the Texas environment. If a SEP is approved, an alleged violator, or respondent, may offset a portion of an assessed monetary penalty by taking on an environmental-enhancement project or contributing to an existing environmental project in, or near, the community where the violation occurred.

Under Texas law, the Texas Commission on Environmental Quality (TCEQ) may consider your willingness to contribute to a SEP in the settlement of enforcement actions. So, early in the enforcement process, you may discuss the possibility of investing in a project that improves the environment—a Supplemental Environmental Project.

SEPs can include a wide range of actions that protect or improve the environment in or near the community where an environmental violation took place. The use of SEPs advances the goals of clean air, water, and soil throughout Texas and enhances the environment in communities affected by environmental violations.

This publication amends and replaces the previous edition, *Use of Supplemental Environmental Projects* (RG-367, October 2002). This publication does not create any rights on behalf of alleged violators or other parties involved in the development of environmental projects. The approval of any particular proposed agreed order, or SEP, or related conditions is wholly subject to the discretion of the TCEQ commissioners.

Who's Eligible to Undertake a SEP?

The TCEQ encourages all respondents to consider undertaking a SEP. However, the TCEQ must evaluate each case individually to determine whether a SEP is appropriate in that instance. In its evaluation process, the TCEQ may consider the respondent's history of completing SEPs. The TCEQ may also consider other factors, such as the respondent's good-faith participation in the settlement of the enforcement action, and the respondent's degree of culpability for the violations at issue.

In each case, the TCEQ tries to bring the enforcement process to a conclusion as soon as reasonably possible, while still providing the respondent an opportunity to do a SEP. In order to be considered for a SEP, within 30 days after the exit interview that concludes an investigation, a respondent must declare intent to undertake a SEP. For the SEP approval process to be completed, the respondent must resolve any dispute concerning the amount of the proposed monetary penalty and be willing to sign an agreed order.

Opportunities for public comment are available during the enforcement process.

WHAT MAKES FOR AN ACCEPTABLE SEP?

In order to be considered acceptable as a Supplemental Environmental Project, a project must include several key elements, as follows.

Three Principal Criteria: The Project Must . . .

There are three principal criteria that the TCEQ uses to assess the validity of a SEP proposal. To adequately meet the agency's standards, the project must . . .

Be Environmentally Beneficial

The project should improve and protect the environment and reduce environmental risks to the public. Projects that are directly beneficial to the environment are preferred. Projects that have only an indirect benefit to the environment may be acceptable, but—if approved—the amount of the penalty that may be

offset by the project would be limited to a smaller portion than is allowed with a project that directly benefits the environment. An example of a directly beneficial project is the cleanup of an illegal dump site. An example of an indirectly beneficial project is an environmental research project conducted to develop new techniques to control pollution.

If the proposed project would provide some direct benefit to you, the respondent, the project may not be approvable or it may only allow limited portions of the penalty amount to be offset by the project.

Be Done as a Result of a Settlement

The project must follow, not precede, an enforcement action. You cannot receive SEP credit for a project that you have already completed, or already included in your budget, or already committed to undertake. For example, a city could not offset a penalty amount with a household hazardous waste (HHW) project, if it had previously committed to implement such a project or received grant funds to implement one. However, if that same city proposed to expand the HHW project beyond its previous commitments, then the project may be appropriate.

Go Beyond What Is Required for Compliance

A SEP must directly or indirectly benefit the environment above and beyond legal compliance requirements. If federal, state, or local law requires you to carry out the project being proposed, the project cannot qualify as a SEP. Nor can you use a SEP to fix the problems that are the basis of the enforcement action taken against you by the TCEQ.

Other Factors Considered

The TCEQ will also consider the following three questions when determining whether to approve a SEP (and whether to allow a dollar-for-dollar offset).

- *Does the project meet state, regional, or community environmental priorities?*
- *Will the project be done in or near the community where the violation occurred?* The agency gives preference to SEPs that benefit the same community where the violation occurred. In addition to SEPs performed within the immediate geographic locale of the violation, a project benefiting the same community may include one that provides an environmental enhancement to the same watershed or nonattainment area where the violation occurred.
- *Does the project match the environmental media of the violation?* The agency gives preference to SEPs that involve the same environmental media (air, water, or waste) as the alleged violation. For example, to address a wastewater discharge violation, you might focus on improving water quality, perhaps by extending wastewater treatment services to low-income families who do not have such service.

The agency cannot approve projects that are necessary to return the respondent to compliance, but otherwise it has broad discretion in its implementation of the SEP program.

Exceptions to SEP Policy

In limited circumstances, the TCEQ's executive director may make an exception to the agency's SEP policy if there is an extraordinary benefit to human health or the environment that outweighs the considerations used in developing this policy. Such cases will be evaluated on an individual basis and must directly benefit the individuals, community, or area potentially or actually affected by the violations, or otherwise address environmental priorities of the state, region, or community. Any exception to the policy must ultimately be approved by the TCEQ commissioners before the project can be implemented.

WHAT ARE THE BASIC TYPES OF SEPS?

There are two basic "types" of SEPs: pre-approved SEPs and custom SEPs. Opting for a pre-approved SEP makes the individual proposal process simpler, and therefore likely to take less time. Opting for a custom SEP, although making the proposal process more complex, provides a respondent with a unique opportunity to construct a project tailored to the respondent's capabilities and the community's environmental needs.

Pre-approved SEPs

The TCEQ maintains a list of pre-approved Supplemental Environmental Projects. These are generally limited to direct-benefit projects. They're fully designed and ready to be implemented, or already in progress. You can find a list of these pre-approved SEPs on the TCEQ Web site, at www.tceq.state.tx.us. Or you can ask your enforcement coordinator for a list of pre-approved projects available in your area.

Most of these pre-approved SEPs are meant to be implemented by third parties, but some are meant to be implemented by individual respondents.

Third-Party-Operated

The TCEQ has agreements with a number of nonprofit and governmental organizations to conduct fully developed environmental-enhancement projects that have been approved as SEPs and that are on our list of pre-approved projects. You can make a cash contribution toward one of these pre-approved SEPs that are performed by another entity. This would be a "third party" pre-approved SEP.

Respondent-Operated

Alternatively, you can opt to take on a pre-approved SEP on your own. The TCEQ maintains a list of fully developed environmental-enhancement projects that have already been approved as SEPs, and that can be implemented by a respondent. This would be a "respondent operated" pre-approved SEP.

Custom SEPs

Yet another option would be to undertake a custom Supplemental Environmental Project—one you design, propose, and implement. A custom SEP must have a significant, enduring, and quantifiable environmental benefit, which must be described in detail in a proposal. Please see page 6 for a description of the proposal process

WHERE CAN A SEP BE LOCATED?

The location of a proposed SEP is an important factor in its feasibility and approvability. There are several considerations to keep in mind.

General Rule

The agency gives preference to SEPs that benefit the same community where the violation occurred, including projects that provide environmental enhancement to the same watershed or nonattainment area where the violation occurred. But a SEP cannot generally be located “on-site”—at the actual site of the facility that committed the violations. Also, a SEP cannot generally be located outside the state.

Special Cases

There are some exceptions to the policies that prohibit locating a SEP on the site of the respondent’s facility, or outside the state’s borders. These exceptions are described below.

On-site SEPs

On-site SEPs are SEPs that are performed at the same site or facility where the violations occurred. As mentioned above, on-site SEPs are generally not approvable. However there are three exceptions to this rule, so long as the SEP is not necessary to bring the respondent into compliance with environmental laws and is not necessary to remediate the environmental harm caused by the respondent’s violation:

- Cities, counties, or governmental entities may perform a SEP within their jurisdiction.
- Nonprofit organizations under enforcement may also be eligible to perform a SEP on-site when the benefit to the environment far outweighs the benefit to the nonprofit organization.
- An on-site SEP might be approvable if the project would make the respondent eligible for a Proposition 2 tax exemption and the respondent does not apply for this tax exemption.

Transboundary SEPs

There are many border communities in Texas that are affected by the same water-quality and air-quality conditions as their sister cities in Mexico. In light of this fact, the Texas Legislature has given the TCEQ the authority to consider for approval some projects that operate across the international boundary with Mexico. In limited circumstances, therefore, a respondent may

propose to undertake a project on the Mexican side of the border, if that project would also benefit the environment on the Texas side of the border.

If you wish to propose a transboundary SEP, there are additional factors that the TCEQ must consider before approving the project:

- The project cannot benefit a Mexican city at the expense of its Texas sister city.
- The project must address a problem of strong concern to Texans.
- The project should directly benefit the border environment.
- There must be an existing infrastructure through which the project can be accomplished.
- There must be channels for international communication about the project.
- The project goals should be capable of quick realization.
- The respondent must assume direct responsibility for oversight and implementation of the project.

For more information on the acceptability of transboundary SEPs, please call a SEP staff person, at 512/239-4000.

HOW DOES IT ALL WORK, IN TERMS OF MONEY?

When it comes to the percentage of a penalty that can be offset through a SEP, there is a set of formulas in place. Which formula is applied in a specific case depends principally on the benefit the project will provide the environment—that is, on whether the project is considered a direct-benefit project, an indirect-benefit project, or a mixed-benefit project. Another factor that comes into play in the case of direct-benefit projects is the nature of the respondent organization.

Direct-Benefit SEPs

Governments and not-for-profit organizations may offset up to 100 percent of the penalty by performing a direct-benefit, media-specific SEP. The offset for a direct-benefit project that does not involve the same media as that of the violation will be determined based on how the project addresses state, regional, or community environmental priorities.

For-profit businesses may offset only up to 50 percent of their penalty with a direct-benefit project. On a case-by-case basis, however, the executive director may approve a higher offset percentage for a business proposing a SEP, based on the project’s significant relationship to the affected community or the project’s extraordinary opportunity for environmental enhancement.

A direct-benefit SEP is one that directly benefits the environment. It should provide significant, immediate, and enduring enhancements to the quality of the environment, or prevent or reduce further environmental degradation. The environmental benefits of direct-benefit projects should be readily quantifiable.

General examples of direct-benefit projects include environmental restoration projects, 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, and projects to clean up illegal municipal and industrial dump-sites.

Potential direct-benefit projects include the removal of exotic invasive species from an affected habitat; the installation and maintenance of air or water monitors compatible with the agency's Environmental Monitoring and Response System (EMRS) initiative; the removal of abandoned underground storage tanks and the completion of associated soil remediation; off-site pollution-prevention projects; the conversion of gasoline-powered equipment used by local governments or school districts to alternative-powered, low-emission equipment; and the collecting of community household hazardous waste.

A project is media specific when it pertains to the same environmental media (air, water, or waste) as the violation. For example, a respondent in a case involving a wastewater discharge violation could undertake a SEP that would extend wastewater treatment services to a low-income community that lacks this service.

Indirect-Benefit SEPs

Projects that indirectly benefit the environment can only offset up to 33 percent of any regulated entity's penalty.

An indirect-benefit SEP is one that does not have an immediate effect of improving the environment. General examples of indirect-benefit projects include education, public-awareness, and technical-assistance projects. The projects' environmental benefits must be quantifiable to be approved. Potential indirect-benefit SEPs include environmental-education programs where the number of participants can be tracked, or technical-assistance programs for small businesses where there are methods to measure their impact.

Mixed-Benefit SEPs

Mixed-benefit projects can only offset up to 50 percent of the penalty.

A mixed-benefit SEP is one that has both indirect and direct benefits. General examples of mixed-benefit SEPs include pollution-reduction projects that don't have an immediate quantifiable benefit, projects that have both educational and direct environmental benefits, and handheld air-monitoring projects conducted by environmental groups. A specific example of a mixed-benefit SEP could be one that involves both cleaning up an illegal dump site and educating the public on the hazards of illegal dumping.

Examples of Penalty Offsets

After you submit a SEP proposal, it will be reviewed to determine whether it will qualify as a direct-, indirect-, or mixed-benefit project. The following examples show how much penalty can be offset in each case.

If an organization offsets only a portion of its penalty amount through a SEP, the balance of the penalty must be paid to the state's General Revenue Fund.

With a Direct-Benefit SEP

If a government or nonprofit organization has a \$30,000 fine and proposes doing a SEP that has a direct environmental benefit, the entity will be able to offset the entire \$30,000 by spending \$30,000 on a SEP. A for-profit business with a \$30,000 fine will be able to offset \$15,000 of the penalty by spending \$15,000 on a SEP.

With an Indirect-Benefit SEP

If an entity has a \$30,000 fine and proposes an indirect-benefit SEP, the entity is allowed to offset up to \$10,000 of the penalty.

With a Mixed-Benefit SEP

If an entity has a \$30,000 penalty and proposes a mixed-benefit SEP, the entity can offset \$15,000 of the penalty.

HOW DOES THE PROPOSAL PROCESS WORK?

When a TCEQ investigator determines that your case is required to be submitted for formal enforcement action, you will be informed of your option to perform a SEP, and given any guidance you might need in the proposal process.

You or your facility representative will be informed of the option to perform a SEP either during the exit interview that concludes the investigation, or during a telephone call subsequent to the exit interview. The investigator will make note of the conversation on the exit-interview form.

Declaration of Intent to Undertake a SEP

The investigator will inform you that in order to maintain your eligibility to propose a SEP, you must declare to the TCEQ your intent to perform a SEP, and the TCEQ must receive your notice of intent within 30 days after the date of the exit interview.

If the exit interview is performed in person, the investigator will provide you with a pre-printed postcard that, when received by the TCEQ, will serve as your notice of intent to propose a SEP. If the exit interview is conducted by telephone, the investigator will notify you that the postcard is available on the TCEQ's Web site. After the exit interview, an enforcement coordinator will be assigned to you and will call you to explain the enforcement process.

Submission of a SEP Proposal

Your SEP proposal must be submitted within 30 days after the date of receipt of the draft settlement offer (the draft agreed order). If a SEP proposal is not received during this time period, the case will be either settled without a SEP or, if no settlement is reached, forwarded to the TCEQ's Litigation Division.

If your SEP proposal is for a custom SEP, you may be given more time to develop the details of your project, but you must submit at least a summary describing the basic SEP within the 30-day period.

Review and Approval of a SEP Proposal

Once a SEP proposal is submitted, it will proceed through the review and approval process. This process will vary, depending on whether the proposal is for a pre-approved or a custom SEP. But in either case, if the proposal is approved, the SEP must be incorporated into the settlement agreed order.*

Pre-approved SEPs

A proposal for a pre-approved SEP must indicate the enforcement case, the penalty amount, and the location where the violations occurred, including the name of the county. It also needs to include a statement declaring that the SEP is attributable only to the settlement of the current enforcement action, and that no funding has been allocated to the project prior to the approval of the project.

If a pre-approved SEP is proposed, the project has already been determined to meet applicable SEP criteria, and approved by the TCEQ. The SEP provision will be drafted by the enforcement coordinator and incorporated into the agreed order immediately after the proposal is received and has been determined to meet applicable offset percentages. The enforcement coordinator will already have a list of offset values for any pre-approved project.

Custom SEPs

If the proposal involves a custom SEP, the SEP coordinator will help you develop any further details of your custom SEP as necessary and will draft the SEP provision of the agreed order. Once the details of the custom project are complete, the SEP coordinator will review the project to determine that it meets applicable offset percentages and the criteria for an acceptable SEP and will confer with the TCEQ regional office to evaluate the environmental benefits of the SEP for the community where the SEP is located.

After the SEP coordinator finishes this review of the custom SEP and determines that all criteria are met, the proposal will be forwarded to the Office of the Executive Director for approval. If approved, it will be incorporated into the agreed order by the enforcement coordinator. Specifically, a written provision will be added to the agreed order requiring the completion of the proposed SEP.

The Agreed Order

The agreed order, incorporating the SEP, will be provided to you and must be signed and returned to the agency within the time frame established by the enforcement coordinator, which is usually 10 days. You should not yet make any payment to the SEP, or begin the SEP, when you sign and return the agreed order.

Once the agency receives the signed agreed order, it will be scheduled to be presented to the TCEQ commissioners for approval. The TCEQ commissioners have full discretion in the final approval of any agreed order and associated SEP. Once the com-

missioners approve the agreed order and associated SEP, you should begin to implement the project in accordance with the agreed order.

WHAT ARE THE REPORTING REQUIREMENTS?

Written provisions requiring reporting on the actual quantified benefits achieved during project implementation (such as pounds of reduction in nitrogen oxides, or the number of tires properly disposed) are included in any agreed orders with SEPs (and also in third-party agreements for pre-approved projects). It is important to report quantified benefits so that the TCEQ can gather and report—to the public and the affected community—accurate information on the environmental benefits generated by the SEP program.

Quarterly Reports

Once your SEP has been approved by the TCEQ, you must provide the TCEQ with quarterly reports on the status of the project. The reports should itemize each expenditure and give the status of the project with supporting documentation such as receipts and photographs.

Final Report

At the conclusion of the SEP, you must submit a detailed report verifying completion of the project and supplying data regarding benefits to the environment (for example, the number of pounds collected of household hazardous waste). You must provide any necessary documentation to support the facts in your report, including evidence of expenditures. SEP staff and the Field Operations Division coordinate to perform on-site visits to verify SEP completion for selected projects. The results of all SEPs are available to the public and are consolidated into an annual report, posted on the TCEQ Web site.

WHAT ABOUT “THIRD PARTY” AGREEMENTS?

As has been mentioned earlier, the TCEQ can enter into agreements with third-party nonprofit and governmental organizations to conduct environmental-enhancement projects. These agreements are generally limited to projects that directly benefit the environment. Once approved as SEPs, these “third-party projects” are added to our list of pre-approved projects, which appears on the TCEQ Web site, at www.tceq.state.tx.us.

Basic Eligibility

A third party that is interested in obtaining and using SEP dollars to implement an environmental-enhancement on pages 1–2. In addition, eligible third-party organizations must:

- have Internal Revenue Code section 501c (3) status as a nonprofit organization, or be a governmental organization;

* An agreed order is a document used to settle an enforcement action. The agreed order—which is agreed to by you and the TCEQ—sets forth alleged violations and the actions required to resolve the alleged violations; and requires payment of a monetary penalty. The agreed order can also require the performance of a SEP to offset all or a portion of the penalty, when a regulated entity has elected to use a SEP.

- have the ability to receive and manage SEP monies, and to report to the TCEQ on the use of these monies, with verifying documentation;
- estimate the quantifiable benefits in the proposal (e.g., number of tires to be removed); and
- commit to providing a report on the actual quantified benefits achieved during project implementation (such as, pounds of reduction in nitrogen oxides, or the number of tires properly disposed).

The TCEQ may consider other factors in determining the appropriateness of entering into a third-party arrangement with an organization. For example, an organization’s experience in implementing and managing environmental-enhancement projects may be taken into consideration.

Submitting a Third-Party Proposal

Field Operations investigator committees can provide input in developing your third-party SEP proposal. Your proposal will be reviewed by a panel of TCEQ staff from the Litigation, Enforcement, Field Operations, and Small Business and Local Government Assistance divisions (the “SEP Panel”) to ensure that the proposed SEP meets criteria and that all agency priorities are met. Other areas of the agency will be consulted, as appropriate.

Proposed SEPs that meet agency criteria, as determined by the SEP Panel, will be submitted to the commissioners for approval on an annual basis. Opportunities for public comment are available when the commissioners consider new projects for the pre-approved list. If the project is approved by the commissioners, it will then be added to the list of pre-approved SEPs and

become eligible to receive SEP funds arising out of enforcement actions that are resolved in the following year.

Please see the TCEQ Web site, at www.tceq.state.tx.us, for further guidance on drafting a proposal for a third-party, pre-approved project. You can also find a number of other publications and forms, including the standard reporting form used to report the results of a SEP.

Getting TCEQ Rules or Other Publications

There are various ways to obtain copies of rules, publications, or forms from the TCEQ:

Go to www.tceq.state.tx.us, and—under the “Site Navigation” bar—follow the links “Forms and Publications” and “Rules, Policy, & Legislation.”

You can also contact the TCEQ Publications Unit at 512/239-0028. Try to give rule, publication, or form numbers as well as the title; this information will help the TCEQ staff get the correct item to you as quickly as possible. You may also fax your order to 512/239-4488, or write to TCEQ Publications, MC 195; P.O. Box 13087; Austin, TX 78711-3087.

For Further SEP Assistance

Call a SEP staff person, at 512/239-3400.

Or visit our Web site, for forms & information:

www.tceq.state.tx.us/legal/sep/index.html

PREPARING A PROPOSAL FOR A CUSTOM SEP

A proposal for a custom SEP will require more information than one for a pre-approved SEP. If your proposal is for a custom SEP, you should contact the TCEQ SEP coordinator, who can help you prepare the proposal.

Your custom SEP must have a significant, enduring, and quantifiable environmental benefit, which should be described in detail in the proposal. A quantified estimate of projected benefits of a SEP is necessary so that the TCEQ can assess the proposed project’s expected benefit to the environment. The following information must be included in a proposal for a custom SEP.

Enforcement Action

Indicate the name of the entity and the location of the site associated with the enforcement action.

Regulatory Information

Provide a brief summary of all environmental enforcement orders, including compliance status, relating to the site identified above.

Name of Project

Provide the name of the proposed SEP.

Project Implementer

Provide the name, mailing address, telephone number, and fax number for the project director, the organization conducting the project, and the person who will be responsible for submitting status reports (if different from the project director). If the project will be conducted by a third party to the TCEQ enforcement action, the proposal should be accompanied by a letter or resolution from the appropriate board, governing body, or executive staff expressing the organization’s commitment to the project if approved.

TCEQ Contact Person

Provide the name, division, and telephone number of any TCEQ staff person who has assisted with the development of this project.

Geographical Area to Benefit from Project

Identify cities, counties, and watersheds and/or nonattainment areas that would be affected by the project.

Kind of Project

Identify the kind of project that is being proposed. The agency's SEP policy identifies the following six kinds of projects as appropriate SEPs.

- Pollution-prevention and/or -reduction projects.
- Environmental-restoration projects that go beyond repair, serving to enhance the environment in the vicinity of the violating facility.
- Assistance to other TCEQ-regulated entities that are faced with economic and/or technological hardships.
- Environmental-education and/or -engineering assistance to members of the regulated community or the public.
- Projects to fund public works for a neighboring municipality or county that will 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.

Project Description

Describe the project, including the following information: the need for the project; the availability of other similar services or projects in the area; and the requirements for implementing the project, which can include technology, operation, or process changes.

Expected Environmental Benefits

Explain the expected environmental benefits of this project and quantify these expected benefits to the extent practical.

- *For pollution-prevention or -reduction projects:* Quantify the amount of each pollutant that is expected to be reduced beyond the level required for environmental compliance. Specify the media (air, water, land) to be affected.
- *For all other types of projects:* Quantify the participants, programs offered, sites cleaned, types of contamination contained or removed, acres restored or affected, etc.

Project Budget

Provide projected initial and annual project costs with specific subcategories. Costs must be clearly and solely attributable to the proposed SEP. The budget can include credit for labor costs, but only if it is for overtime or contracted labor.

Rate-of-Return Analysis

Provide an analysis of estimated annual financial returns on the project.

Project Schedule

Provide a proposed schedule that addresses project implementation and the submittal of status reports to the TCEQ. Project implementation must not commence until after the commissioners have approved the agreed order that includes this SEP.

Accounting

Describe how SEP contributions would be accounted for if a third party is the proposed project implementer.

Reporting

Describe the information and documentation that would be included in project status reports. Reports must provide sufficient information for the TCEQ to monitor the implementation status of the project, verify and document proper expenditure of SEP funds, and evaluate the effectiveness and benefits of the project. Reporting must include the quantified environmental benefits.

Regulatory Requirements and/or Prior Commitments

- Identify any applicable local, state, or federal regulations that would require implementation of this project or any part of this project.
- Identify any binding private commitments to implement this project or any part of this project.
- Identify whether this project is part of one or more of the following:
 - a pollution-prevention commitment identified in a plan developed pursuant to the state's Waste Reduction Policy Act (WRPA)
 - a commitment made under the Clean Texas Program
 - the U.S. Environmental Protection Agency's Project XL
 - any other incentive or regulatory flexibility program

Indicate the time frame for implementation of the project under any identified commitments.

Certification of Expenditures by Respondent

Provide a separate certification that the proposed SEP is solely attributable to the settlement of the current enforcement action; that no funding has been budgeted to the project prior to the approval of the project; and that the proposed project is not funded by grants, donations, low-interest loans, or other sources of funding not attributable to the respondent's normal budgetary process. Also certify that the proposed project is not being done, nor will it receive credit, as part of an environmental incentive or awards program.