



Resolution 17-3
Approved April 8, 2017
Washington, D.C.

Revised April 27, 2020
All Members Call

As certified by
Donald Welsh
Executive Director

ON THE VALUE OF SUPPLEMENTAL ENVIRONMENTAL PROJECTS

WHEREAS, many federal and state enforcement actions for failure to comply with environmental laws and regulations are resolved through settlement agreements; and

WHEREAS, as part of a settlement agreement, the entity may be offered the opportunity to voluntarily undertake an environmentally beneficial project, known as a Supplemental Environmental Project (SEP), related to the violation and factored into the settlement penalty demand; and

WHEREAS, SEPs advance the public interest by providing additional environmental and public health benefits for communities adversely impacted by environmental violations; and

WHEREAS, U.S. EPA issued its 2015 Update to the 1998 U.S. Environmental Protection Agency Supplemental Environmental Projects Policy (SEPs Policy), revising and superseding the following: the February 1991 Policy on the Use of Supplemental Environmental Projects (SEPs) in EPA Settlements, the May 1995 Interim Revised SEP Policy, and the May 1998 EPA SEP Policy; and

WHEREAS, U.S. EPA's SEPs Policy encourages teams to consider SEPs early in the settlement process and, as appropriate, provide SEP ideas to defendants; and

Whereas, the U.S. Department of Justice's (DOJ) recent policies, Using Supplemental Environmental Projects in Settlements with State and Local Governments (August 2019) and Using Supplemental Environmental Projects in Civil Settlements with Private Defendants (March 2020) , broadly discourage the use of SEPs in settlements; and

WHEREAS, 37 states have adopted SEPs Policies and make SEPs an integral part of the settlement process. State SEPs Policies vary with respect to implementation.

NOW, THEREFORE, BE IT RESOLVED THAT THE ENVIRONMENTAL COUNCIL OF THE STATES (ECOS):

Encourages the use of SEPs Policies by states and U.S. EPA in all appropriate instances to respond to environmental harm and to invigorate communities across the nation;

Calls on U.S. DOJ to reconsider its current policy and realign with U.S. EPA's 2015 SEPs Policy;

Calls on U.S. EPA to work collaboratively with ECOS to collect federal SEP examples, and to make SEPs a key part of settlement negotiations; and

Plans to collect examples of successful state SEPs to advance the knowledge of the benefits of these projects to the economic and social health of communities.