



# California Regional Water Quality Control Board

## San Francisco Bay Region



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**Subject: Supplemental Environmental Projects as Components of Administrative Civil Liabilities**

The San Francisco Bay Regional Water Quality Control Board (Water Board) accepts and encourages Supplemental Environmental Projects (SEPs) in lieu of a portion of any Administrative Civil Liability (ACL) or Mandatory Minimum Penalty (MMP) imposed on dischargers in the Bay Area. This letter is to inform you of the types of projects the Water Board will accept and the procedures for proposing and implementing a project.

The overall goals of the Water Board's program for SEPs are:

1. Monetary penalties should be directed to projects within the Region, especially in the watershed where the discharge occurred;
2. Projects should benefit the environment; and,
3. Projects should focus on education, outreach, and/or restoration.

The Water Board identifies four categories of SEPs that may receive funding: pollution prevention, pollution reduction, environmental restoration, and environmental education. The project should not be used to mitigate the damage caused directly by the original violation or to implement measures required to comply with permits or regulations, since this is the responsibility of the discharger regardless of any penalties involved.

The Water Board does not select projects for SEPs. Rather, it is the discharger's responsibility to propose the project (or projects) they would like to fund and then obtain approval from the Water Board. However, the Water Board can facilitate this process by maintaining a list of possible projects, which is made available to dischargers interested in pursuing the SEP option. Dischargers are not required to select a project from this list, however, and may contact local governments or public interest groups for potential projects in their area, or develop projects on their own.

In cases where an SEP is approved by the Water Board, payment of a portion of the ACL or MMP will be suspended if the project is satisfactorily completed on schedule. The SEP can only be used to offset a portion of the proposed penalty. Therefore, the final ACL package will consist of a monetary penalty, reimbursement of staff costs, and a project. Note that the total penalty is not reduced by implementing a project. Rather, the method of payment is being modified in order to achieve a greater environmental benefit.

The State Water Resources Control Board's Enforcement Policy requires third-party oversight of SEPs. The Water Board has contacted with the San Francisco Estuary Project (SFEP) to provide this oversight. SFEP serves as a liaison between the discharger, the Water Board, and the fund recipient, and will monitor project implementation and expenses. SFEP staff will also maintain a current list of potential projects and can assist in the selection process. This coordination work is funded by allocation of 6% of any SEP over \$20,000 to SFEP.

Questions regarding the Water Board's SEP program may be directed to Carol Thornton at SFEP at (510) 622-2419.

