

## Proportionality Process

The subgroup that was formed to identify a process to make proportionality determinations has identified a process based on the following goals:

- The baseline for evaluation of environmental benefit is “compliance” i.e. those actions taken above that line are eligible for consideration in making the proportionality test.
- Proportionality gives consideration to the ongoing costs associated with the maintenance of the management system
- A separate process exists for consideration of those entities that don’t yet have an EMS and would need to put in an EMS in order to participate in Green Tier
- The focus of the proportionality process is on the economics for both the costs and the benefits side of the ledger, recognizing that some of the environmental benefits calculations made be speculative in the early going.
- In compiling the economics, attempts need to be made to place a value on the intangibles (recognition, working relationship, customer acceptance, etc.) that are a part of Green Tier and have not been traditionally valued in decision making processes.
- Recognize that even in the traditional command and control systems assumptions are made in order to make permitting decisions and that as a part of the proportionality process that assumptions will need to be made and tested as a part of the decision making about and subsequent implementation of participation contracts.

While the focus of the proportionality process is on developing the economic indicators, there is an understanding that:

- in some cases a dollar amount may not be able to be determined,
- dollar amounts (when stated) may not be as precise as they might become as we learn about calculating economic impacts by testing our assumptions and is determined
- stated dollar amounts should be accompanied by a disclaimer/explanation on the precision of the number so that the discussion can remain focused on the overall benefit rather than discreet debates about the precise nature of the number.

By focusing on the overall goal and learning to about the economic calculations through experience, the process will hopefully result in more refined numbers and better information over time.

The proposed process keys on the existing process defined in the statutes and the associated transparency for the development of a participation contract for Tier 2 participants. The proposed process is as follows:

- DNR develops guidance that would be used by applicants to compile and submit a ledger sheet that would be submitted at the time the “notice of intent” is sent to the agency as specified in the statutes. That guidance would:
  - Key upon and make use of the questions that were developed in the “Sniff Test” document that was compiled at the time that the original Green Tier legislation was drafted.
  - Compile and provide access to the benefit calculators that have been developed such as carbon footprint calculators, environmental benefits tests and other similar documents that would start to place values on actions taken.
  - Attempt to provide a format that would result in capture of available objective information but also would provide ways that estimation and experimentation could contribute to the development of environmental benefits calculations.
  - Attempt to provide a format that would identify variables in such a way that enable comparison and to develop an overall format that would allow some comparison from one participation contract to the next.
- The applicant submits a ledger sheet that outlines their initial proposal. The ledger sheet would have a basic structure that in one section identifies the impacts on the applicant by describing both costs and benefits. As second section would describe the environmental impacts and would, as with the applicant section, describe both costs and benefits. Items that would likely be included in the initial submission are, for example:
  - Costs
    - Transaction Costs for application

- Operations Costs for the EMS and meeting program requirements (including but not limited to reporting and auditing)
    - Implementation Costs – the costs associated with accomplishing the environmental goals identified in the objectives and targets (i.e. the commitments to superior environmental performance)
    - Risks – the cost of new risks that might be introduced by the experimental nature of some action that is being proposed.
  - Benefits
    - Realized (especially in the case of commitments to ongoing environmental programs such as recycling) and anticipated savings/pay back from the objectives and targets being met
    - Collateral savings – Benefits that derived from doing the EMS that may not have been part of the initial commitment but accrued once the entity got into the implementation of the environmental management program.
    - Intangible Business Values – these would include but not be limited to brand protection, social license, customer impact and improved working relationships.
    - Environmental Benefits – for example carbon costs, offsets to using virgin materials, land protection, etc.\
    - Administrative Benefits – at both the company and agency levels from permits streamlined, unnecessary permits avoided, reporting efficiencies, monitoring effectiveness, etc.
- The letter of intent and the balance sheet are included in the public notice for the participation contract and in the consideration of third parties that may be a part of the participation contract discussions both the applicant and the department will give consideration to the value that third parties would add to the proportionality decision that would be made for the contract.
- Negotiations would proceed between the parties and the Environmental Balance Sheet would be further refined as a part of the development of the participation contract.
- At the time of the final public notice for the participation contract, the corresponding finalized balance sheet for the participation contract would also be made available.
- An analysis of the ledger sheet and would be included in the package used to make the final determination on the participation contract. The analysis should consider the comments received, evaluate the subjective descriptions provided and analyze the economic information supplied.
- The final determination on proportionality would be made by the Secretary as is specified currently in the statutes giving consideration to the balance sheet as a part of the process.

#### ALTERNATIVE

At the time of the discussion on 11/27, there were two lingering issues. First, there are going to be entities participating in the program that don't have the "manufacturing" gives of point sources making defined and calculable discharges to the air, water and land, thereby making some of the anticipated calculations for the ledger sheet decidedly difficult. Second, by making assumptions and calculations in the application on the ledger sheet, the applicant may be opened up to criticism/adversarial kinds of reactions rather than using the process to jointly learn about and develop both the costs and the benefits. A way that those concerns might be addressed is to have the ledger sheet that accompanies the "Letter of Intent" include the hard costs and benefits that are known to the applicant along with an identification of those areas that would be developed during the negotiations on the participation contract. The remaining parts of the process would remain the same and the transparency issue could be addressed by including a step in the process that would have the applicant and the Department consult with a mutually agreeable third party about the ledger sheet prior to the public notice being given unless a third party has been involved during the development of the participation contract.