

Green Tier Advisors
RECOMMENDATION

Proportionality (June 9, 2008)

RECOMMENDATION: The Green Tier Advisors recommend a Proportionality Process developed by Department staff and the Advisors. Additional information can be taken from the Proportionality Process 1.2 document attached.

The Proportionality Application Process consists of 5 steps which are as follows:

1. Notice of Intent Prospective Tier 2 Participant develops a narrative submitted with the application with the following framework:

- Clearly state real, verifiable environmental improvement goals
- Demonstrate necessity of this program to achieve these goals
- Describe:
 - corresponding public benefits
 - the role of the state regulatory agency-facilitator
 - enforceability agreement
- Explain how stakeholders and interested persons will be able to effectively participate
- Commit resources to the project to assure successful completion
- Illustrate a reasonable baseline for comparison for measurement, evaluation and feedback loops

2. Proportionality With the notice of intent and application the Department works with applicant to draft narrative subject to open records law that further details their proposal. This will be used within the 1st public notice session, and to make an initial determination of proportionality. The narrative describes the following:

A. Economic aspects

- Transaction costs for application
- Operations costs for the EMS and meeting program requirements (reporting, auditing, etc.)
- Implementation costs – costs associated with accomplishing the environmental goals specified in the commitments to superior environmental performance
- Risks that may be introduced by the experimental nature of some action that is being proposed
- Prospective benefits (savings/pay back) – measurability of these
- 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 EMS
- Administration benefits – time saved, unnecessary permits avoided, reporting efficiencies, monitoring effectiveness, etc.

B. Environmental goals

- Expected benefits – carbon costs, material savings, land protection etc.
- Measurability of these goals
- Environmental risks associated with this agreement

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C. Social interaction/transparency features

- The necessity of granting requested flexibility to achieve the superior environmental performance goals
- Intangible business values – brand participation, social license, customer impact and improved working relationships
- Marketability
- Business networking
- Process of reporting results (website, newsletter, yearly report, etc)

3. Finalized Narrative Negotiations would proceed between the parties and the narrative would be finalized in preparation of the 2nd public notice/comment regarding entering into the contract.

4. Finding of Proportionality Any additional concerns from Department or public are addressed. The resulting document is the finalized package consisting of the application, letter of intent, and proportionality statement.

5. Final Determination Final determination on proportionality is made by the Secretary as is specified currently in the statutes giving consideration to all information submitted throughout this process.

HOW WILL THIS BE USED TO ADVANCE THE PROGRAM?

This Process is intended to clarify the issue of proportionality by providing a foundation for the Department's development and evaluation of Tier 2 contracts, as well as, serve as a guide to applicant through targets, areas of emphasis and examples. The subsequent document will also be used during the public notice and comment period.

HOW WERE THEY DEVELOPED?

At the March meeting, the Advisors considered a variety of ways that proportionality could be considered and recommendations developed for the Department. A proposal for recommendations was framed by externals and staff and considered at March meeting. The Advisors made suggestions to the proposal and requested a new proposal for the June 6, 2008 meeting, the Advisors made further changes to the proposed process and then requested a recommendation be written and put into place. The results from the initial participants will be presented to the Advisors to review the results of this process.