

Part VII
Natural Resources
Chapter 70
COASTAL ZONE ACT

§ 7001 Purpose.

It is hereby determined that the coastal areas of Delaware are the most critical areas for the future of the State in terms of the quality of life in the State. It is, therefore, the declared public policy of the State to control the location, extent and type of industrial development in Delaware's coastal areas. In so doing, the State can better protect the natural environment of its bay and coastal areas and safeguard their use primarily for recreation and tourism. Specifically, this chapter seeks to prohibit the construction of new heavy industry in its coastal areas beyond the heavy industry use sites defined in this chapter. The expansion of heavy industry beyond those sites is determined to be incompatible with the protection of that natural environment in those areas. While it is the declared public policy of the State to encourage the introduction of new industry into Delaware, the protection of the environment, natural beauty and recreation potential of the State is also of great concern. In order to strike the correct balance between these 2 policies, careful planning based on a thorough understanding of Delaware's potential and the State's needs is required. Therefore, control of industrial development in the coastal zone of Delaware through a permit system at the state level is called for. It is further determined that offshore bulk product transfer facilities represent a significant danger of pollution to the coastal zone, therefore bulk product transfer facilities are prohibited in the coastal zone, unless approved through a conversion permit at a heavy industry use site that had a docking facility or pier for a single industrial or manufacturing facility on or before June 28, 1971.

(7 Del. C. 1953, § 7001; 58 Del. Laws, c. 175; 70 Del. Laws, c. 186, § 1; 81 Del. Laws, c. 120, § 1.)

§ 7002 Definitions.

(a) "Board" shall mean the Coastal Zone Industrial Control Board.

(b) "Bulk product transfer facility" means any port or dock facility, whether an artificial island or attached to shore by any means, for the transfer of bulk quantities of any substance from vessel to onshore facility or vice versa. Not included in this definition is a docking facility or pier for a single industrial or manufacturing facility for which a permit is granted or which is a nonconforming use. Likewise, docking facilities for the Port of Wilmington are not included in this definition.

(c) "Environmental impact statement" means a detailed description as prescribed by the Department of Natural Resources and Environmental Control of the effect of the proposed use on the immediate and surrounding environment and natural resources such as water quality, fisheries, wildlife and the aesthetics of the region.

(d) "Heavy industry use" means a use characteristically involving more than 20 acres, and characteristically employing some but not necessarily all of such equipment such as, but not limited to, smokestacks, tanks, distillation or reaction columns, chemical processing equipment, scrubbing towers, pickling equipment and waste-treatment lagoons; which industry, although conceivably operable without polluting the environment, has the potential to pollute when equipment malfunctions or human error occurs. Examples of heavy industry are oil refineries, basic steel manufacturing plants, basic cellulosic pulp-paper mills, and chemical plants such as petrochemical complexes. An incinerator structure or facility which, including the incinerator, contains 5,000 square feet or more, whether public or private, is "heavy industry" for purpose of this chapter. Generic examples of uses not included in the definition of "heavy industry" are such uses as garment factories, automobile assembly plants and jewelry and leather goods manufacturing establishments, and on-shore facilities, less than 20 acres in size, consisting of warehouses, equipment repair and maintenance structures, open storage areas, office and communications buildings, helipads, parking space and other service or supply structures required for the transfer of materials and workers in support of off-shore research, exploration and development operations; provided, however, that on-shore facilities shall not include tank farms or storage tanks.

(e) "Heavy industry use site" means those 14 sites depicted in Appendix B of the Regulations Governing Delaware's Coastal Zone, § 101, Title 7 of the Delaware Administrative Code in effect on August 2, 2017, including those sites which have been abandoned in fact or have been the subject of an abandonment proceeding.

(f) "Manufacturing" means the mechanical or chemical transformation of organic or inorganic substances into new products, characteristically using power-driven machines and materials handling equipment, and including establishments engaged in assembling component parts of manufactured products, provided the new product is not a structure or other fixed improvement.

(g) "Nonconforming use" means a use, whether of land or of a structure, which does not comply with the applicable use provisions in this chapter where such use was lawfully in existence and in active use prior to June 28, 1971.

(h) "Person" shall include, but not be limited to, any individual, group of individuals, contractor, supplier, installer, user, owner, partnership, firm, company, corporation, association, joint-stock company, trust, estate, political subdivision, administrative agency, public or quasi-public corporation or body, or any other legal entity, or its legal representative, agent or assignee.

(i) "The coastal zone" is defined as all that area of the State, whether land, water or subaqueous land between the territorial limits of Delaware in the Delaware River, Delaware Bay and Atlantic Ocean, and a line formed by certain Delaware highways and roads as follows:

Beginning at the Delaware-Pennsylvania line at a place where said line intersects U.S. Route 13; thence southward along the said U.S. Route 13 until it intersects the right-of-way of U.S. Route I-495; thence along said I-495 right-of-way until the said I-495 right-of-way intersects Delaware Route 9 south of Wilmington; thence along said Delaware Route 9 to the point of its intersection with Delaware Route 273; thence along said Delaware Route 273 to U.S. 13; thence along U.S. 13 to Maintenance Road 409; thence along Maintenance Road 409 to Delaware Road 71; thence along Delaware Road 71 to its intersection with Delaware Road 54; thence along Delaware Road 54 to Delaware Road 896; thence along Delaware Road 896 to Maintenance Road 396; thence along Maintenance Road 396 to Maintenance Road 398; thence along Maintenance Road 398 to the Maryland state line; thence southward along the Maryland state line to Maintenance Road 433; thence along Maintenance Road 433 to Maintenance Road 63; thence along Maintenance Road 63 to Maintenance Road 412; thence along Maintenance Road 412 to U.S. 13; thence along U.S. 13 to Delaware 299 at Odessa; thence along Delaware Route 299 to its intersection with Delaware Route 9; thence along Delaware Route 9 to U.S. 113; thence along U.S. Route 113 to Maintenance Road 8A; thence along Maintenance Road 8A to Maintenance Road 7 to the point of its intersection with Delaware Route 14; thence along Delaware Route 14 to Delaware Route 24; thence along Delaware Route 24 to Maintenance Road 331; thence along Maintenance Road 331 to Maintenance Road 334; thence along Maintenance Road 334 to Delaware Route 26; thence along Delaware Route 26 to Maintenance Road 365; thence along Maintenance Road 365 to Maintenance Road 84; thence along Maintenance Road 84 to Maintenance Road 384; thence along Maintenance Road 384 to Maintenance Road 382A; thence along Maintenance Road 382A to Maintenance Road 389; thence along Maintenance Road 389 to Maintenance Road 58; thence along Maintenance Road 58 to Maintenance Road 395; thence along Maintenance Road 395 to the Maryland state line.

(7 Del. C. 1953, § 7002; 58 Del. Laws, c. 175; 61 Del. Laws, c. 116, § 88(a); 62 Del. Laws, c. 119, §§ 1, 2; 63 Del. Laws, c. 191, § 1(a); 71 Del. Laws, c. 348, § 1; 81 Del. Laws, c. 120, § 2.)

§ 7003 Uses absolutely prohibited in the coastal zone.

Except as provided by § 7014 of this title, heavy industry uses of any kind not in operation on June 28, 1971, are prohibited in the coastal zone and no permits may be issued therefor. In addition, offshore gas, liquid or solid bulk product transfer facilities which are not in operation on June 28, 1971, are prohibited in the coastal zone, and no permit may be issued therefor, except as provided in § 7014 of this title. The prohibitions in this section shall not apply to public sewage treatment or recycling plants. An incinerator is neither "public sewage treatment" nor a "recycling plant" for the purpose of this chapter.

(7 Del. C. 1953, § 7003; 58 Del. Laws, c. 175; 64 Del. Laws, c. 240, § 6; 66 Del. Laws, c. 256, § 1; 71 Del. Laws, c. 348, § 2; 81 Del. Laws, c. 120, § 3.)

§ 7004 Uses allowed by permit only; nonconforming uses.

(a) Except for heavy industry uses, as defined in § 7002 of this title, manufacturing uses not in existence and in active use on June 28, 1971, are allowed in the coastal zone by permit only, as provided for under this section. Any nonconforming use in existence and in active use on June 28, 1971, shall not be prohibited by this chapter and all expansion or extension of nonconforming uses, as defined herein, and all expansion or extension of uses for which a permit is issued pursuant to this chapter, are likewise allowed only by permit. Expansions or extensions shall be subject to the permit requirements outlined in this section and the process outlined in § 7005 of this title. The conversion of a heavy industry use site to an alternative or additional heavy industry use is allowed only by a conversion permit issued pursuant to § 7014 of this title. The conversion of a heavy industry use site to a bulk product transfer facility is allowed only through a conversion permit issued under § 7014 of this title. Provided, that no permit may be granted under this chapter unless the county or municipality having jurisdiction has first approved the use in question by zoning procedures provided by law.

(b) In passing on permit requests, the Secretary of the Department of Natural Resources and Environmental Control and the State Coastal Zone Industrial Control Board shall consider the following factors:

(1) Environmental impact, including but not limited to, probable air and water pollution likely to be generated by the proposed use under normal operating conditions as well as during mechanical malfunction and human error; likely destruction of wetlands and flora and fauna; impact of site preparation on drainage of the area in question, especially as it relates to flood control; impact of site preparation and facility operations on land erosion; effect of site preparation and facility operations on the quality and quantity of surface, ground and subsurface water resources, such as the use of water for processing, cooling, effluent removal, and other purposes; in addition, but not limited to, likelihood of generation of glare, heat, noise, vibration, radiation, electromagnetic interference and obnoxious odors.

(2) Economic effect, including the number of jobs created and the income which will be generated by the wages and salaries of these jobs in relation to the amount of land required, and the amount of tax revenues potentially accruing to state and local government.

(3) Aesthetic effect, such as impact on scenic beauty of the surrounding area.

(4) Number and type of supporting facilities required and the impact of such facilities on all factors listed in this subsection.

(5) Effect on neighboring land uses including, but not limited to, effect on public access to tidal waters, effect on recreational areas and effect on adjacent residential and agricultural areas.

(6) County and municipal comprehensive plans for the development and/or conservation of their areas of jurisdiction.

(7 Del. C. 1953, § 7004; 58 Del. Laws, c. 175; 61 Del. Laws, c. 116, § 88(c); 63 Del. Laws, c. 191, § 1(a), (b); 68 Del. Laws, c. 347, § 1; 81 Del. Laws, c. 120, § 4.)

§ 7005 Administration of this chapter.

(a) The Department of Natural Resources and Environmental Control shall administer this chapter. All requests for conversion permits under § 7014 of this title for a heavy industry use site seeking an alternative or additional heavy industry use or for a bulk product transfer facility, and all requests for permits for manufacturing land uses and for the expansion or extension of nonconforming uses under § 7004 of this title in the coastal zone shall be directed to the Secretary of the Department of Natural Resources and Environmental Control. Such requests must be in writing and must include:

- (1)a. Evidence of approval by the appropriate county or municipal zoning authorities;
- b. A detailed description of the proposed construction and operation of the use; and
- c. An environmental impact statement.

(2) The Secretary of the Department of Natural Resources and Environmental Control shall hold a public hearing and may request further information of the applicant. The Secretary of the Department of Natural Resources and Environmental Control shall first determine whether the proposed use is, according to this chapter and regulations issued pursuant thereto:

- a. A heavy industry use or bulk product transfer facility prohibited under § 7003 of this title;
- b. A use allowable only by permit under § 7004 of this title;
- c. A use requiring no action under this chapter; or
- d. A heavy industry use or bulk product transfer facility allowable by conversion permit under § 7014 of this title.

The Secretary of the Department of Natural Resources and Environmental Control shall then, if he or she determines that § 7004 or § 7014 of this title applies, reply to the request for a permit within 90 days of receipt of an administratively complete permit, either granting the request, denying same, or granting the request but requiring modifications; the Secretary shall state the reasons for his or her decision.

(b) The Secretary of the Department of Natural Resources and Environmental Control may issue regulations including, but not limited to, regulations governing disposition of permit requests, and setting forth procedures for hearings before himself or herself and the Board. Provided, that all such regulations shall be subject to approval by the Board.

(c) The Secretary of the Department of Natural Resources and Environmental Control shall develop and propose a comprehensive plan and guidelines for the State Coastal Zone Industrial Control Board concerning types of manufacturing uses deemed acceptable in the coastal zone and regulations for the further elaboration of the definition of "heavy industry" and for further elaboration of conversion permits under § 7014 of this title in a manner consistent with the purposes and provisions of this chapter. Such plan and guidelines shall become binding regulations upon adoption by the Board after public hearing. The Board may alter said regulations at any time after a public hearing. Provided, that any such regulations shall be consistent with §§ 7003, 7004, and 7014 of this title.

(d) The Department of Natural Resources and Environmental Control and all agencies of state government shall assist the State Coastal Zone Industrial Control Board in developing policies and procedures, and shall provide the Board with such information as it shall require.

(e) The Secretary shall annually prepare a schedule of fees for permits issued pursuant to this section and submit the same as part of the Department's annual operating budget proposal.

(7 Del. C. 1953, § 7005; 58 Del. Laws, c. 175; 61 Del. Laws, c. 116, § 88(a), (c); 63 Del. Laws, c. 191, § 1(a), (b); 68 Del. Laws, c. 86, § 8; 70 Del. Laws, c. 186, § 1; 81 Del. Laws, c. 120, § 5.)

§ 7006 State Coastal Zone Industrial Control Board created; composition; conflict of interest; quorum.

There is hereby created a State Coastal Zone Industrial Control Board, which shall have 9 voting members. Five of these shall be regular members appointed by the Governor and confirmed by the Senate. No more than 2 of the regular members shall be affiliated with the same political party. At least 1 regular member shall be a resident of New Castle County, 1 a resident of Kent County and 1 a resident of Sussex County, provided that no more than 2 residents of any county shall serve on the Board at the same time. The additional 4 members shall be the Director of the Division of Small Business, Development and Tourism, and the chairpersons of the planning commissions of each county, who shall be ex officio voting members. The term of 1 appointed regular member shall be for 1 year; 1 for 2 years; 1 for 3 years; 1 for 4 years; and the chairperson, to be designated as such by the Governor, and serve at the Governor's pleasure. Thereafter, all regular members shall be appointed for 5-year terms. The members shall receive no compensation except for expenses. Any member of the Board with a conflict of interest in a matter in question shall disqualify himself or herself from consideration of that matter. A majority of the total membership of the Board less those disqualifying themselves shall constitute a quorum. A majority of the total membership of the Board shall be necessary to make a final decision on a permit request.

(7 Del. C. 1953, § 7006; 58 Del. Laws, c. 175; 63 Del. Laws, c. 191, § 1(c), (d); 69 Del. Laws, c. 458, § 1; 70 Del. Laws, c. 186, § 1; 81 Del. Laws, c. 49, § 6.)

§ 7007 Appeals to State Coastal Zone Industrial Control Board.

(a) The State Coastal Zone Industrial Control Board shall have the power to hear appeals from decisions of the Secretary of the Department of Natural Resources and Environmental Control made under §§ 7005 and 7014 of this title. The Board may affirm or reverse the decision of the Secretary of the Department of Natural Resources and Environmental Control with respect to applicability of any provisions of this chapter to a proposed use; it may modify any permit granted by the Secretary of the Department of Natural Resources

and Environmental Control, grant a permit denied by the Secretary, deny a permit or confirm the Secretary's grant of a permit. Provided, however, that the Board may grant no permit for uses prohibited in § 7003 of this title.

(b) Any person aggrieved by a final decision of the Secretary of the Department of Natural Resources and Environmental Control under § 7005(a) or § 7014 of this title may appeal same under this section. Appellants must file notice of appeal with the State Coastal Zone Industrial Control Board within 14 days following announcement by the Secretary of the Department of Natural Resources and Environmental Control of his or her decision. The State Coastal Zone Industrial Control Board must hold a hearing and render its decision in the form of a final order within 60 days following receipt of the appeal notification.

(c) Whenever a decision of the Secretary of the Department of Natural Resources and Environmental Control concerning a permit request is appealed, the Board shall hold a public hearing at which the appellant may be represented by counsel. All proceedings in such a hearing shall be made a matter of record and a transcript or recording of all proceedings kept, and the public may attend and be heard.

(d) The Board shall publicly announce by publication in at least 1 newspaper of daily publication in the county in which the site designated in the request is wholly or principally located and in at least 1 newspaper of daily publication and general circulation throughout the State the time, location and subject of all hearings under this section at least 10 days prior thereto.

(7 Del. C. 1953, § 7007; 58 Del. Laws, c. 175; 61 Del. Laws, c. 116, § 88(c); 63 Del. Laws, c. 191, § 1(a), (b); 70 Del. Laws, c. 186, § 1; 81 Del. Laws, c. 120, § 6.)

§ 7008 Appeals to Superior Court.

Any person aggrieved by a final order of the State Coastal Zone Industrial Control Board under § 7007 of this title may appeal the Board's decision to Superior Court in and for the county of the location of the land in question. Likewise, the Secretary of the Department of Natural Resources and Environmental Control may appeal from any modification by the Board of his or her ruling. The appeal shall be commenced by filing notice thereof with Superior Court not more than 20 days following announcement of the Board's decision. The Court may affirm the Board's order in its entirety, modify same or reverse said order. In either case, the appeal shall be based on the record of proceedings before the Board, the only issue being whether the Board abused its discretion in applying standards set forth by this chapter and regulations issued pursuant thereto to the facts of the particular case. The Superior Court may by rule prescribe procedure by which it will receive, hear and make disposition of appeals under this chapter. Provided, that no appeal under this chapter shall stay any cease and desist order or injunction issued pursuant to this chapter.

(7 Del. C. 1953, § 7008; 58 Del. Laws, c. 175; 61 Del. Laws, c. 116, § 88(c); 63 Del. Laws, c. 191, § 1(a), (b); 70 Del. Laws, c. 186, § 1.)

§ 7009 Condemnation.

If Superior Court rules that a permit's denial, or restrictions imposed by a granted permit, or the operation of § 7003 or § 7004 of this title, is an unconstitutional taking without just compensation, the Secretary of the State Department of Natural Resources and Environmental Control may, through negotiation or condemnation proceedings under Chapter 61 of Title 10, acquire the fee simple or any lesser interests in the land. If the Secretary does not use this authority to acquire the fee simple or any lesser interests in the land within 5 years from the date of the Court's ruling, the permit must be granted as applied for.

(7 Del. C. 1953, § 7009; 58 Del. Laws, c. 175.)

§ 7010 Cease and desist orders.

The Attorney General shall have the power to issue a cease and desist order to any person violating any provision of this chapter ordering such person to cease and desist from such violation. Provided, that any cease and desist order issued pursuant to this section shall expire (1) after 30 days of its issuance, or (2) upon withdrawal of said order by the Attorney General, or (3) when the order is superseded by an injunction, whichever occurs first.

(7 Del. C. 1953, § 7010; 58 Del. Laws, c. 175.)

§ 7011 Penalties.

Any person who violates this chapter shall be fined not more than \$50,000 for each offense. The continuance of an activity prohibited by this chapter during any part of a day shall constitute a separate offense. Superior Court shall have exclusive original jurisdiction over offenses under this chapter.

(7 Del. C. 1953, § 7011; 58 Del. Laws, c. 175.)

§ 7012 Injunctions.

The Court of Chancery shall have jurisdiction to enjoin violations of this chapter.

(7 Del. C. 1953, § 7012; 58 Del. Laws, c. 175.)

§ 7013 Inconsistent laws superseded; all other laws unimpaired; certain uses not authorized.

All laws or ordinances inconsistent with any provision of this chapter are hereby superseded to the extent of the inconsistency. Provided, that present and future zoning powers of all counties and municipalities, to the extent that said powers are not inconsistent with this

chapter, shall not hereby be impaired; and provided that a permit granted under this chapter shall not authorize a use in contravention of county or municipal zoning regulations.

(7 Del. C. 1953, § 7013; 58 Del. Laws, c. 175.)

§ 7014 Conversion permit.

(a) An owner, operator, or prospective purchaser of a heavy industry use site, including a site that has been abandoned in fact or has been the subject of an abandonment proceeding, may submit an application to the Secretary of the Department of Natural Resources and Environmental Control for a conversion permit under this section for an alternative heavy industry use or an additional heavy industry use that will operate simultaneously with any existing use on that heavy industry use site.

(b) An owner, operator, or prospective purchaser of a heavy industry use site that had a docking facility or pier for a single industrial or manufacturing facility on or before June 28, 1971, including a site that has been abandoned in fact or has been the subject of an abandonment proceeding, may submit an application to the Secretary of the Department of Natural Resources and Environmental Control for a conversion permit to operate a bulk product transfer facility that may be operated simultaneously with other heavy industry uses, industrial uses or manufacturing uses. Provided, however, that a conversion permit may be issued only for a bulk product transfer facility used to receive shipments of bulk products to the extent they are necessary for and fully utilized in the operation of a facility or facilities within the coastal zone, or that is used for the shipment of bulk products to the extent they are produced by a facility or facilities within the coastal zone, unless the product is a grain, as that term is defined in § 1601 of Title 3, in which case it may be transferred without regard to origin or destination. A conversion permit may not be issued for bulk transfer of liquefied natural gas.

(c) An application for a conversion permit made under subsection (a) or (b) of this section must be in writing on a form approved by the Secretary and must include the items listed in § 7004(b) and § 7005(a)(1) of this title, the items required by regulation promulgated under this chapter, and all of the following items to be considered in assessing a conversion permit application:

(1) The environmental impact and economic effect of the existing or previous use. If the application is for a subsequent conversion permit, the Secretary of the Department of Natural Resources and Environmental Control has the discretion to direct the applicant to provide information on the environmental impact and economic effect of any of the previous uses at the site.

(2) The environmental impact and economic effect of the alternative or additional heavy industry use or bulk product transfer activity.

(3) The net environmental improvement or economic improvement, or both, inherent in the alternative or additional heavy industry use or bulk product transfer activity as compared to the most recent heavy industry use engaged in at that site.

(4) Evidence that the owner, prospective owner, or applicant for the conversion permit under this section has complied with, and will continue to comply with, the requirements of the Delaware Hazardous Substance Cleanup Act, Chapter 91 of this title, and any other relevant state or federal environmental statutes, and shall agree to pay all costs of such compliance.

(5) A plan to prepare the site for potential impacts of sea-level rise and coastal storms over the anticipated useful life of the facility and infrastructure in connection with the applied-for use.

(6) An offset proposal that meets the requirements established by and includes the contents specified in regulations promulgated under this chapter and more than offsets the facility's negative environmental impacts on an annual basis. Such proposal shall favor offsets that directly benefit Delaware.

(7) A timeframe for the conversion to an additional or alternative heavy industry use or bulk product transfer facility.

(8) Evidence of financial assurances in sufficient form and amount necessary to ensure that: (i) there are sufficient resources for all costs of compliance with the Delaware Hazardous Substances Control Act and other relevant state and federal environmental statutes concerning contamination on the site at the time of application; and (ii) upon the event of an incident resulting in environmental contamination, or upon termination, abandonment, or liquidation of all activities at the site of any heavy industry use, all means will be taken to minimize environmental damage and stabilize and secure the heavy industry use site in accordance with a concept plan that will be approved by the Department of Natural Resources and Environmental Control as part of the conversion permit. A final plan approved by the Department of Natural Resources and Environmental Control is required prior to the initiation of operation of the activity being authorized under the conversion permit.

a. Evidence under paragraph (c)(8) of this section must be in accordance with any regulations promulgated by the Secretary of the Department of Natural Resources and Environmental Control under Chapter 92 of this title and any regulations promulgated under this chapter.

b. If, on the date of an application filed under this section, the Secretary has not promulgated regulations under Chapter 92 of this title or under this chapter, the Secretary shall assess the evidence presented by the applicant under paragraph (c)(8) of this section as follows:

1. By taking into consideration the size of the site of the heavy industry use and the quantities of chemicals maintained and generated as wastes on the site of the heavy industry use.

2. By taking into consideration, and giving due credit for, financial assurances established through other programs operated by the Department of Natural Resources and Environmental Control.

3. By allowing evidence of financial assurance to include insurance, guarantee, surety bond, letter of credit, proof of assets, qualification as a self-insurer, or other agreements acceptable to the Secretary.

(d) For purposes of paragraphs (c)(1) and (c)(2) of this section, "environmental impact" and "economic effect" have the same meanings as in § 7004(b) of this title.

(e) In making a decision on a conversion permit application under this section, the Secretary of the Department of Natural Resources and Environmental Control, in the first instance, and the State Coastal Zone Industrial Board, on appeal, shall consider all of the following:

- (1) The factors listed in § 7004(b) of this title.
- (2) The items listed in paragraphs (c)(1) through (c)(8) of this section.
- (3) Compliance with any regulations promulgated under § 7005(b) and (c) of this title.

(f) The Secretary of the Department of Natural Resources and Environmental Control may not grant a conversion permit under this section for any of the following heavy industry uses that were not in existence on June 28, 1971:

- (1) An oil refinery.
- (2) A basic cellulosic pulp paper mill.
- (3) An incinerator.
- (4) A basic steel manufacturing plant.
- (5) A liquefied natural gas terminal.

(g) The Secretary of the Department of Natural Resources and Environmental Control must hold a public hearing prior to issuing a conversion permit under this section. All public hearings must be noticed as required by this chapter, regulations promulgated under this chapter, or applicable law.

(h) Notwithstanding the 90-day response time for a decision by the Secretary of the Department of Natural Resources and Environmental Control on a permit application under § 7005(a) of this title, the Secretary and an applicant under this section may, by mutual agreement, extend such time for a decision.

(i) The Secretary of the Department of Natural Resources and Environmental Control shall publish, on the Department of Natural Resources and Environmental Control's website, all decisions made under this section including the reasons therefor.

(81 Del. Laws, c. 120, § 7.)

§ 7015 Biennial report.

(a) Beginning on January 1, 2019, and every 2 years thereafter the Delaware Economic Development Office shall provide a comprehensive report to the General Assembly and the Governor detailing economic development that has been enabled by the Coastal Zone Conversion Permit Act [81 Del. Laws, c. 120]. Such report shall include but is not limited to an assessment of how many jobs were created and track any increase in infrastructure investment and total additional economic activity.

(b) By September 1, 2017, the Department of Natural Resources and Environmental Control shall provide to the General Assembly and the Governor a baseline report summarizing the contamination and remediation status of each of the 14 heavy industry use sites as of July 1, 2017. Beginning on January 1, 2019, and every 2 years thereafter the Department of Natural Resources and Environmental Control shall provide a comprehensive report to the General Assembly and the Governor summarizing the status of contamination and remediation for all 14 heavy industry use sites compared to the status of the sites on July 1, 2017, and summarizing the environmental status at each site issued a coastal zone act conversion permit. Such report for sites issued a coastal zone act conversion permit shall include, but is not limited to, a list of remediation and site improvement activities underway, a list of offsets and the status of implementation, a list of environmental enforcement actions, a list of any emergency response incidents, a summary of toxic release inventory submissions, and a summary of any air or water quality monitoring if required by another environmental permit.

(81 Del. Laws, c. 120, § 7.)