
Discussion Categories

Linking Issues, Options, and Approaches for RAC Deliberations

CZCPA RAC Meeting #8
January 22, 2019

DISCUSSION CATEGORIES

	Introduction	Options	Preliminary Recommendations	Review
Description	Initial presentation of topic to the RAC	Presentation of options for RAC consideration	RAC consensus, to the extent possible, on preliminary recommendations	RAC preliminary recommendations sent to DNREC Secretary as FYI; ready for public review
Purpose	Educate the RAC about the topic, issues, and ideas to prepare for deliberations	Learn about and discuss the options per sub-issues within the topic and consider how the options might be packaged together	Deliberate upon, prioritize, and to the extent possible, reach consensus on an overall approach to the topic, or at the least preferred or prioritized options	Put consensus-based decision in writing; forward to DNREC for review at Public Workshops; RAC will have a chance to react to public comments and revise recommendations

CURRENT STATUS

	Introduction	Options	Preliminary Recommendations	Review
Topic		<ul style="list-style-type: none">• Cross-Cutting Issues	<ul style="list-style-type: none">• Offsets	<ul style="list-style-type: none">• Bulk Product Transfer• Sea Level Rise & Coastal Storm Impact Planning• Economic Effect• Environmental Impact• Risk Evaluation & Financial Assurance

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Preliminary Recommendation from the CZCPA RAC to DNREC Secretary Garvin

As of December 14, 2018

Recommendations for bulk product transfer conversion permit requirements

- Record-keeping conditions (e.g., summary submitted to DNREC on an annual basis)
- Permits should incorporate product categories (to minimize the need for permit modification or new permits for minor, related changes)
- Any addition of a new bulk product category, that was not included in the existing permit, may require a permit modification or new permit due to impacts on financial assurance or environmental offsets

Recommendations for a site plan for sea-level rise and coastal storm impacts

- The Plan should detail risk, likely impacts, and mitigation measures for specified geographic areas (e.g., site's shoreline, ingress/egress routes)
- The Plan should include a discussion of any potential negative impacts to adjacent parcels resulting from development and flood mitigation activities
- The Plan should address specified hazards over the anticipated useful facility life (e.g., 1% and 0.2% chance flood (as defined by FEMA), shoreline erosion)

Recommendations for reporting economic effect and net economic improvement

- Conversion permits should define “existing or previous use” to mean the same as “most recent heavy industry use”
- “Economic effect” and “net economic improvement” should use the same economic metrics
- For applicant use, the State will prepare a “baseline report” detailing the economic effect of the existing or most recent heavy industry use of the 14 sites

Recommendations for reporting economic effect and net economic improvement (cont'd)

- Applicants should be required to submit economic metrics for specified categories (project cost, tax revenue, employment, state- and community-level effect, other costs to the state) when reporting economic effect and net economic improvement
- DNREC should verify the economic information submitted by an applicant via a range of verification options (e.g., formal panel of experts)

Recommendations for reporting economic effect and net economic improvement (cont'd)

- Local, robust hiring is an intent and goal of the CZCPA. Therefore, the Secretary, to the degree his or her role and authorities allow, should seek to encourage and ensure such actions.

Recommendations for reporting environmental impact and net environmental improvement

- For applicant use, the State will prepare a “baseline report” detailing the current use and existing environmental conditions of the 14 sites
- For CZCPA purposes, environmental impacts should be characterized in a manner consistent with the current CZA permit program and the CZA definition of “environmental impact”

Recommendations for evidence of financial assurances (FA)

- The RAC put forth a table of recommendations on:
(1) risk event categories, (2) process for establishing FA, (3) process for determining FA amounts, (4) range of FA instruments, and (5) appropriateness of each FA instrument to a risk event category
- FA should be commensurate with proposed use/risk
- FA should be reviewed at periodic intervals for the life of a conversion permit

Recommendations for evidence of financial assurances (FA) (cont.)

- DNREC Secretary should clearly define what is included in “environmental damage”: Natural resource damages? Public health? Recreation?
- Self-insurance is not the preferred FA for termination, abandonment, or liquidation of site activities, due to the long-term time frame
- DNREC Secretary should offer expedited or less complex review for third-party FA

Recommendations for evidence of financial assurances (FA) (cont.)

- DNREC Secretary should take into account the added expertise needed to review self-insurance FA when considering administrative costs and application fees
- As circumstances merit, the DNREC Secretary should require a blended approach of third-party and self-insurance instruments and/or third-party instruments only during periodic review of self-insurance FA

Final note

All of the preliminary recommendations are subject to change based on feedback received at the forthcoming CZCPA Public Workshops

Cross-Cutting Issues

PROPOSALS FOR REGULATORY APPROACHES

Definition of “Site”

“Site” means

- The physical location on the earth at which a permitted facility operates, or the location where a facility that is the subject of an application will operate
- A site may comprise an entire tax parcel or parcels, or part of any tax parcel(s)
- Preliminary boundary shall be defined prior to the issuance of a permit, in the application for a permit
- Final boundary shall be defined in the permit

Definition of “Useful Life”

“Useful Life” means:

- The period of time that an applicant or permittee expects to operate a facility that requires a coastal zone conversion permit.
- Equals thirty (30) years unless the Secretary allows an application for or issues a permit for a different time period.

Permit Duration

Duration: 10 years

The Secretary may in his or her discretion issue a permit for a lesser duration and may grant an extension of a permit term for a period of no more than ninety (90) days.

Renewal: Allowed. Application needs to be submitted no fewer than 150 days prior to expiration.

Permit Amendments (Modification)

Only the conditions subject to modification are reopened.

Minor Modification - for administrative changes,

- Spelling or grammatical errors, change in only the name of owner or operator, or other administrative matters that do not affect the substantive permit requirements.
- No public notice

Major Modification – affects substantive requirements of the permit

- Public notice required
- Modification of the ownership or operating entity in a permit shall be granted only in the event that the prospective permittee satisfies all the applicable requirements under the regulations.

Permit Monitoring and Reporting Post-Approval

Offsets

Applicant will need to provide a monitoring schedule that describes a process for 3rd party verification of offset project operation and completion.

Bulk Transfer

Permittee submits annual report (as previously recommended by RAC)

Site Inspections

Access allowed to the site at reasonable times.

Permit Monitoring and Reporting Post-Approval

Financial Assurance

- Annual
- Submit evidence that
 - the financial assurance required by the permit is in effect
 - in the amount required by the permit
 - permittee has taken all necessary measures to ensure that the financial assurance will remain in effect throughout the duration of the permit.

Community Engagement and Public Workshops

Plan for Public Workshops and Pre-Workshop Outreach

Ian Yue

Delaware DNREC

CZCPA RAC Meeting #8

January 22, 2019

Recap: Goals of Public Workshops

- Engage members of the public who have otherwise been unable to engage during daytime meetings. → *Evening Workshops*
- Inform people about the overall regulatory development process and the role of regulations. → *Overview presentation*
- Interact with people on the issues informing RAC deliberations and, as available, preliminary RAC recommendations.
→ *Information stations with focused feedback forms*



Information stations on issues the RAC is deliberating on and, as available, RAC recommendations.



Feedback forms ask for comments on topic-specific recommendations.



Presentation on CZCPA regulatory development process and role of regulations



Approach to Information Stations

- Overview stations (2 overall)
 - *Background station* – Overview of CZA and regulation development, purpose of regulations, how to engage with topical stations
 - *Map station* – Static and interactive maps of 14 sites
- Topical stations (5 overall)
 - 3 larger *poster-board displays* – Environmental Impact and Offsets, Risk and Financial Assurance, Planning for SLR and Coastal Storms
 - 2 smaller *posters* – Economic Effect, Bulk Product Transfer
- Feedback forms – Focused and topic-specific

Public Workshop Dates

- **Monday, February 25, 2019, 5:00pm-8:00pm**
Claymont Community Center
- **Tuesday, February 26, 2019, 5:00pm-8:00pm**
Delaware City Fire Hall

If you, as a RAC Member, plan on attending one or both Workshops, please let Ian know so we have a nametag ready for you.

RAC Input

- All RAC preliminary recommendations through the February 2019 meeting will be presented at the Public Workshops
- Questions from the RAC can also be put before the public

Any questions you wish to pose to the public?

Pre-Workshop Outreach

- Public Notice – Sunday newspapers, DNREC press release, Delaware Public Meeting Calendar, CZA website, CZA listserv
- Community/civic group and legislator contacts
- **We need your help as RAC Members!**
- Other ideas?



Discussion: Thoughts? Questions? Suggestions?

Upcoming Meetings and Events

- **RAC Meeting** Tues, Feb 19 9:00am – 4:00pm
- **Public Workshop** Mon, Feb 25 5:00pm – 8:00pm
- **Public Workshop** Tues, Feb 26 5:00pm – 8:00pm
- **Public Workshop** TBD 5:00pm – 8:00pm
- **RAC Meeting** Tues, Mar 12 9:00am – 4:00pm
- **RAC Meeting** Tues, Mar 26 9:00am – 4:00pm (*only if needed*)
- **RAC Meeting** Tues, Apr 9 9:00am – 4:00pm