

**COASTAL ZONE CONVERSION PERMIT ACT REGULATORY ADVISORY COMMITTEE MEETING #8
JANUARY 22, 2019**

APPROVED BY THE CZCPA RAC ON FEBRUARY 19, 2019

Disclaimer: This meeting summary was prepared by the Consensus Building Institute (CBI), a non-profit entity contracted by DNREC to facilitate CZCPA RAC meetings and draft meeting summaries. This summary is not intended to be a meeting transcript. Rather, it focuses on the main points covered during the meeting without attribution.

MEETING IN BRIEF

At its January 22, 2019 meeting, the Coastal Zone Conversion Permit Act (CZCPA) Regulatory Advisory Committee (RAC) discussed key issues related to its charge to advise the Delaware Department of Natural Resources and Environmental Control (DNREC) on drafting regulations to implement the CZCPA. The RAC reviewed and approved the meeting summary from its December 11 meeting. The RAC put forth preliminary recommendations related to offsets, discussed cross-cutting issues and key definitions, and reviewed the preliminary recommendations that have been sent to the DNREC Secretary to date. DNREC staff also updated the RAC on plans for the upcoming Open Houses. There were two opportunities for the public to comment on the topics being discussed by the RAC and the meeting closed with a brief discussion of next steps. A list of meeting participants is attached to the end of this summary. Presentation slides are available at de.gov/czcparac.

ACTION ITEMS

Who	What
RAC members	<ul style="list-style-type: none"> • RSVP for the Open Houses to Ian Yue. • Send Ian Yue questions you would like posed to the public at the Open Houses. • Assist DNREC staff in spreading the word about the timing, location, and format of the Open Houses.
DNREC/DOJ	<ul style="list-style-type: none"> • Post all presentation slides, background materials, and the approved December 11 meeting summary to the CZCPA RAC webpage at de.gov/czcparac. • Prepare all approved recommendations for transmittal to the Secretary from the Chair. • Finalize plans for Open Houses in late February in Claymont, Wilmington, and Delaware City. • Distribute draft January 22 meeting summary to RAC for review (will finalize at February 19 meeting). • With CBI, develop draft agenda for February 19 meeting.
CBI	<ul style="list-style-type: none"> • Prepare draft meeting summary. • Draft agenda for February 19 meeting.

UPCOMING MEETINGS AND EVENTS

Event	Date	Venue
RAC Meeting #9	Tuesday, Feb. 19, 2019	DNREC Lukens Drive Office (Pat Ellis Conference Room and Conference Room B), 391 Lukens Drive, New Castle, DE 19720
Open House	Monday, February 25, 2019 5:00-8:00pm	Claymont Community Center, 3301 Green St, Claymont, DE 19703

Open House	Tuesday February 26, 2019 5:00-8:00pm	Delaware City Fire Hall, 815 5 th Street, Delaware City, DE 19706
Open House	Wednesday February 27, 2019 5:00-8:00pm	Elbert-Palmer Elementary School, 1210 Lobdell Street, Wilmington, DE 19801
RAC Meeting #10	Tuesday, Mar. 12, 2019	Buena Vista Conference Center (Buck Library), 661 S. DuPont Hwy, New Castle, DE 19720
RAC Meeting #11	Tuesday, Apr. 9, 2019	Buena Vista Conference Center (Buck Library), 661 S. DuPont Hwy, New Castle, DE 19720

The most detailed and up-to-date information on upcoming CZCPA meetings and events is posted on the Delaware Public Meeting Calendar at <https://de.gov/czcpameetings>.

DISCUSSION

Below is a summary of key topics discussed during the meeting. All presentation slides are available at de.gov/czcpaparac.

RAC Business

The December 11 meeting summary was approved by the RAC with no changes.

Offsets: Recommendation Development Phase

Presentation

Mike Donlan (IEc) presented a list of possible conversion permit offset rules and priorities (see Appendix B¹). The document contained a prioritized list of criteria for how to identify offsets that appropriately address their respective environmental impacts.

Discussion

The RAC discussed the rules and priorities contained in the document and provided feedback to DNREC. The comments below are from RAC members unless otherwise specified:

General comments and questions

- There does not seem to be any incentive for a conversion permit applicant to not simply move through the list and propose an offset project with the least common denominator. There needs to be language that describes what applicants must show in order to demonstrate that they cannot meet an offset project that is higher up on the list.
- I actually like the flexibility given to applicants, as described in this process. I think it lies with the DNREC Secretary to push applicants “up the list”.
- In the current regulations, there is already a similar structure for offsets. What is new here compared to how DNREC is already evaluating offsets?
 - DNREC Response: These priorities largely reflect what the agency already does, but this list prioritizes our offset preferences. One major difference from the current permitting program is that the CZCPA requires offsets to benefit Delaware, allowing conversion permit offsets to have an effect beyond the Coastal Zone. Another difference is that the CZCPA requires applicants to offset their impact annually, rather than just once at the beginning of a permitted project.
- Can language be added to this document to encourage offsets that help clean up contaminated sites?

¹ Appendix B reflects the editing suggestions made during the RAC’s discussions.

- The proposed offset process makes it seem like if you can not do one type of offset project that you have the option of doing another. I'm not sure this will always be the case. If there is an egregious local impact, that impact should be addressed locally.
- Also, projects that increase odor for a neighborhood should simply not be considered unless they can be avoided.
 - DNREC Response: "Egregious" environmental impacts are unlikely due to existing federal and state laws and regulations that these sites must operate under. As for odor and noise, it would be impossible to offset those impacts elsewhere. Offsets for odor and noise are inherently local. Determining an offset is not just an academic exercise. When we administer the program, we look at the impact. Some impacts do not require identifying potential receptors because such information is already clear. However, if the impact is not clear, but the emission is localized – and we can mitigate the emission – then addressing the emission may be the appropriate offset.
 - IEc Response: It's important to note that an offset project does not license conversion permit applicants to have free range with environmental impacts. The goal is always to avoid and minimize impacts first and then offset only what cannot otherwise be avoided or minimized.
- How are noise and odor dealt with in the current offsets program?
 - DNREC Response: We can't recall when such impacts have been dealt with in the past. They may have been addressed in a coastal zone permit application but not in an offsets project, to our recollection.
- Does the offset have to be environmental in nature?
 - DNREC Response: The offset has to address the impact. The nexus between the impact and the offset should be as close as possible.

Revisions to the offset rules & priorities document

The RAC raised concerns and suggested specific edits regarding:

- Clarifying how the statute language "offset on an annual basis" will be applied. Desire to determine appropriate offsets for both near-term and long-term impacts and ensure all impacts are more than offset.
- Adding language that explicitly states offsets should strive to address local impacts. Consider including mechanisms that incentivize applicants to select offset projects that meet criteria at the "top of the list". Applicants could be required to justify why they cannot meet the criteria at "top of the list".
- Clarification that applicants should strive to address and mitigate uniquely localized impacts such as odor and noise before or during the application process and prior to discussion of offsets. Noise nuisance may be addressed through local ordinances, city/state regulations or thresholds (usually under the purview of the DNREC Division of Air Quality).
- The regulations need to give DNREC flexibility when reviewing applications.
- The RAC may want to recommend guidance language regarding how to quantify an "alternative environmental improvement project of commensurate value".
- The Secretary should provide greater clarity on the process for justifying the selection of an offset.

Decisions and next steps

The RAC conditionally approved the Offsets Rules & Priorities document as revised during the RAC's discussion, with the exception of the language in item number 2 about "life of the facility". This term

needs further discussion and decision by the RAC. The revised document is contained in Appendix B. DNREC staff will prepare these recommendations for transmittal to the Secretary from the Chair.

Cross-cutting issues: Proposals for Regulatory Approaches

Presentation

Andrea Kreiner, DNREC, gave an overview of the cross-cutting issues raised to-date and why the RAC needs to draft recommendations on them. DNREC then presented options for the RAC to consider, available at de.gov/czcparac, for the following issues:

- Definition of “site”
- Definition of “anticipated useful life”
- Permit amendments and duration
- Permit monitoring and reporting post-approval

Discussion

RAC members discussed these four issues and made the comments about them. The comments below are from RAC members unless otherwise specified:

On the definition of “site”

- I am concerned about subdivision of the 14 Heavy Industry Use (HIU) sites, particularly the possibility of developers being able to “cherry-pick” pieces of a larger parcel with the least amount of degradation or contamination and potentially leaving the rest of the site to be managed by the state (or other responsible party) while the seller bypasses liability. I also thought “site” was already defined by the Coastal Zone Act (CZA) in statute; couldn’t we disallow subdivision?
 - DNREC Response: Only HIU site is defined in the CZA, which could be different from how the word “site” is used in other parts of the statute. There are already scenarios where multiple businesses or operations operate on an HIU. There is nothing in the CZA that prevents subdivision, so this scenario needs to be considered.
 - DOJ Response: A regulation that bars subdivision of these sites would likely exceed the authority given to the Secretary. However, the RAC could recommend that a conversion permit applicant disclose information about the entire HIU site, even if the proposed project is on a sub-divided parcel. It is within the power of the RAC to determine disclosure responsibilities and what stewardship responsibilities an applicant might have beyond the site they are developing. Some of these legacy sites will have a mixture of problems, but there could be environmental consequences that do not respect boundaries and an applicant could be required to anticipate those problems.
- There needs to be clarification regarding who would retain remediation responsibilities of the remaining parts of a HIU site if only a piece of it was sold and, furthermore, how this is executed with multiple businesses or operations on the same site
 - DNREC Response: There is record of who is currently responsible. Known contamination is not something a developer (or current responsible party) can escape. There would be several legal steps for owners to go through in order to entirely transfer responsibility. Any new responsible party would be required to comply with all the requirements of the sites, with the possibility of some responsibility remaining with the seller or other responsible party. Moreover, Financial Assurance (FA) requirements for a conversion permit direct an applicant to demonstrate FA to comply with the Delaware Hazardous Substance Cleanup Act.

On the definition of “useful life”

- DNREC Comment: The reason we are putting forth 30 years here as a discussion point is because it is a consistent number, already used by various industries and fields, that is also far enough into the future where it could be used as a planning horizon without being speculative.
- My biggest concern is Sea Level Rise (SLR). SLR is happening more rapidly than we think, so strict planning for it is necessary beyond 30 years. We started with 60 years when we had this conversation in earlier months. DNREC needs to ensure it is using the best data if they are going with 30 years. However, if DNREC is concerned about its data, we may want to look farther out.
- Where does the term “useful life” show up in the statute?
 - DNREC Response: “Useful life” only appears in the section on SLR. However, this term could theoretically apply to other conversion permit issues, which is why we are putting the term before the RAC to define.
- Could we say “no less than” 30 years?
- I don’t think we should tie developers’ hands to a 30-year lifespan. We should allow for the applicant to pick the right planning horizon based on the facility.

On permit amendments and duration

Permit amendments

- It’s important to point out that change of ownerships is not the only trigger for major modification.
- DOJ Comment: This should also account for a permittee who changes any condition or implementation of the permit (e.g., SLR plan or FA). We should also note that a public review or hearing may apply to a major modification.

Duration and renewal

- I am very concerned about this. The CZA is a zoning/land use act, not an act that regulations operations. A CZA permit is a project permit, not a site permit. If we do need a permit term, 10 years is too short to be commercially viable, especially if a developer is looking to get long-term financing for the site.
 - DNREC Response: Part of the goal here is to renew the SLR planning period. The “standard” coastal zone permit doesn’t have a time expiration, but it is a fundamentally different permit type because that permit doesn’t have a SLR planning requirement. Moreover, 10 years may not be as restrictive as you may think. National Pollutant Discharge Elimination System permits are 10 years in duration. Air Quality permits are 5 years in duration. But these projects still get financing. The 10-year permit duration may not actually be that big of a hindrance on financing ability.
- DOJ Comment: We need to look into the Secretary’s authority to revoke a permit. This relates back to the issue of revocation and permit enforcement when we talk about duration and renewal.
- State and county have permit update requirements for some things. What we probably also need to re-evaluate over time is offsets. SLR is the concern because it will be hard to change later, so we need to look at an appropriate horizon for the life of the facility and need to evaluate periodically.
- Permits can be subject to conditions, which give grounds for revocation. Investors will need assurance you’ll be around for a while; this is separate from if you are not in compliance down the road. If the concern is SLR, consider giving a permit with longer years, or indefinitely, but condition it on periodic updates for SLR planning.

- DOJ Response: It's possible to have a condition allowing renewal as long as neither DNREC nor permittee request changes. This is how existing programs have worked.
- I am uncomfortable with calling conversion permits just land use permits. DNREC is not a land use agency; it is an environmental agency. Thus, the conversion permit should be treated as an environmental permit.

On permit monitoring and reporting post-approval

- There's no reference to SLR planning here. What would be the timeframe for reporting? Annual reporting seems too often for SLR updates.
 - DNREC Response: The National Climate Assessment is updated every 4 years, so an annual SLR update would not be appropriate. Sea level rise, at this point, is incremental so an update every 5-10 years would probably be best. We should mention that the concern is not just about sea level rise in and of itself; it's also about shoreline protection, erosion, and flooding.
 - When considering reasonable times for reporting updates on SLR planning, what would happen if some kind of unanticipated emergency event took place in between reporting timeframes, either with respect to SLR or another climate-related event?
 - DNREC Response: Responding to emergency events is already covered in state or federal laws that address emergency provisions.
- DNREC Comment: It should be noted that the longer the permit period, the higher the initial application fee, as reviewing reports regularly requires time and effort on the part of DNREC.
- How long can you get FA for?
 - IEc Response: Depends on the FA instrument. An FA instrument could possibly be applied for the life of the facility. However, the longer the time horizon, the narrower the scope of instruments, in general.

Decisions and Next Steps

The RAC came to consensus and made recommendations for the following two issues:

- **Definition of Useful Life of a Facility**: "Useful life" means the period of time that an applicant or permittee expects to operate a facility that requires a coastal zone conversion permit. The useful life equals thirty (30) years unless the Secretary allows an application for, or issues a permit for, a different time period. This definition is potentially pertinent to sea level rise planning, financial assurances, permit duration, and offsets.
- **Definition of Permit Modification as it pertains to major and minor modifications**: Modifications to an existing permit would be allowed. If the Secretary grants a request for a modification, only the conditions subject to modification are reopened. The remainder of the permit remains as is. Modifications would occur in two forms:
 - Minor modifications would be for administrative changes and would not require a public notice. Administrative changes included but are not limited to corrections of spelling or grammatical errors, a change in only the name of the owner or operator of a permittee or other administrative matters that do not affect the substantive requirements prescribed by the permit.
 - Major modifications would be changes that affect the substantive requirements of the permit and would require public notice and review. A 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 these regulations.

The RAC will continue to discuss the cross-cutting issues that it did not reach consensus on at its next meeting. DNREC staff will prepare the approved recommendations for transmittal to the Secretary from the Chair.

Summary of Preliminary Recommendations to Date

Presentation

The RAC Chair, Justice Randy J. Holland, reviewed Preliminary Recommendations To-Date sent to the Secretary. These recommendations were discussed in depth at previous RAC meetings and cover the following topics:

- Bulk product transfer
- Sea level rise and coastal storm impacts planning
- Economic effect and net economic improvement
- Environmental impact and net environmental improvement
- Risk evaluation and financial assurance

Details of all the preliminary recommendations transmitted to the Secretary to-date can be found at de.gov/czcpa/rac. The RAC Chair noted that all of the preliminary recommendations are subject to change based on feedback received at the forthcoming CZCPA Open Houses.

A RAC member asked what preliminary recommendations were made concerning the planning horizon for sea level rise and coastal storm impacts planning. DNREC responded that this topic was tabled by the RAC at the November 7, 2018 meeting because it could not reach consensus. This topic was re-introduced during the cross-cutting issues discussion.

Community Outreach and Public Engagement Update

Ian Yue (DNREC) provided an update on DNREC's community engagement activities for the conversion permit regulatory development process. Three Open Houses will be held in February 2019 from 5pm to 8pm; one in Claymont, one Delaware City, and one in Wilmington. The third Open House in Wilmington was added at the meeting in response to the strong urging of RAC members to hold this additional event in an area that may be affected by new development. These Open Houses are intended to inform and gather feedback from the larger public. The Open Houses will include an overview presentation of the process and information stations staffed by DNREC employees. Information stations will contain information on the overall regulatory development process and the RAC's preliminary recommendations. The public will have the opportunity to provide focused, written feedback that can inform future RAC discussions and recommendations. Feedback gathered during earlier community meetings will be used to inform the materials and presentations used at the Open Houses. RAC members are encouraged to attend the Open Houses and assist DNREC staff in pre-Open House outreach efforts. RAC members should also send Ian suggestions of questions to pose to the public at the Open Houses.

In addition to the desire for DNREC to hold a third Open House in Wilmington, RAC members suggested moving the time of the Open Houses from 4-7pm to 5-8pm. RAC members noted that social media event invitations and flyers could help publicize the events. A RAC member also suggested that DNREC explore turning the short overview presentation into a video that repeats periodically throughout each Open House.

Next Steps

Patrick Field (CBI) reviewed the next steps in the RAC process and action items (listed on page 1). The next RAC meeting will be held on February 19, 2019. At that meeting, the RAC will engage in agreement-seeking on recommendations for the remaining offsets issue of “life of the facility”, review all of the recommendations submitted to the Secretary to-date, discuss remaining cross-cutting issues, and prepare for the three Open Houses. This RAC meeting, and all upcoming RAC meetings, was and will be open to the public. Before the next meeting, RAC members, DNREC, DOJ, and CBI should plan to complete the action items detailed on page one of this summary.

Public Comment

Below is a summary of questions and remarks offered during the two public comment sessions.

Paul Morrill (Committee of 100):

- During legislation development of House Bill 190, there was talk of giving the Secretary discretion to waive *de minimus* environmental impacts. Was there discussion of this in the Offsets Work Group?
 - DNREC Response: The CZCPA states that all environmental impacts must be more than offset and does not address *de minimus* impacts.

Bill Dunn (Civic League for New Castle County):

- The Open Houses should be later in the evening: 6-8pm or 5-8pm.
- It is appropriate to hold a third Open House in Wilmington. New Castle County has Public Safety Meetings on Route 13. The Route 9 library is also good or McCullough Middle School where Croda held its public meeting. There should be a formal public hearing before and after the last RAC meeting, with a stenographer and record keeper consistent with Delaware recordkeeping.
- These public workshops are cursory and do not have much impact.
- On Offsets:
 - I have not heard an emphasis on the need to have state-of-the-art design, best controls, and real-time exceedance alerts. Regarding the flexibility of offsets, everything so far has been about the applicant, not the community, its quality of life, or public safety. DNREC’s record is poor and there is plenty of room for improvement. The engineers responsible for the recent Croda incident should have their Professional Engineer licenses revoked. Where were the regulatory structures for controlling that situation? This is all about companies coming in. I’ve spoken to three guys about Croda and they said it was the worst run operation they have ever seen. Undersized conduits were fixed, and a gasket blew at one point; there were all kinds of problems on that project. Show me who signed off for DNREC on starting up Croda’s ethylene oxide plant. Here, we are talking about how to facilitate corporations coming in to use these sites, not the communities and their safety and their quality of life. This group needs to step back and re-evaluate what is important in this process. We need regulations far beyond what DNREC has now. After we have good regulations, then consider how to draw in businesses to the state. State-of-the-art controls, good design, and real-time analysis are critical to implementation in this situation.
 - Real-time instrumentation analysis in facility stacks can provide continuous analysis, reducing the chance that employees will miss an exceedance and a company will violate its permit. These tools can also give you a real-time understanding of what is going on.

- On the definition of “site”: If a site is recognized as an industrial site, the whole thing should be recognized as one piece to avoid liability issues down the road.
- On the definition of “useful life”: 30 years is too short.
- On “permit duration”: 10 years is reasonable. If there are changes in EPA requirements or sea level rise projections, DNREC could add another step for “upgraded requirements”. DNREC could give a company three years to bring up their facility for the next 10-year permit duration. This arrangement would give them time to plan, implement, and meet requirements.

Martin Willis (Self):

- On “permit duration”: 10 years is too short. The coastal zone permits for Croda were administered in April 2015 and they just came into operation this past August. So, they were not operating for part of their permit duration. Delaware City Refinery also received a coastal zone permit in in April 2015 for a sulfur diesel plant but could not raise enough money right away. They also could not get an air permit until they got a coastal zone permit. After procurement and construction, the site will come into operation in 2020; this would be half the time they have their permit if the permit term were 10 years. So, 10 years is too short.
- October 1, 2019 is quickly coming upon us and this RAC should steadily start moving forward to draft the permit application. I was very encouraged today when I saw draft permit applications being discussed but there are still many steps to complete, such as going through public comment and before the Coastal Zone Industrial Control Board. The CZCPA was signed into law two years ago and since that time only one coastal zone permit has been issued. In the past, there was an average of 6 permits per year. Everyone is waiting for these conversion permits to be ready but the window is closing. Businesses will go elsewhere unless DNREC starts putting forward some draft regulations.

Adjournment

The RAC Chair, Justice Randy J. Holland, adjourned the RAC at approximately 4:00pm.

APPENDIX A: PARTICIPANT LIST

RAC members (and designated alternates sitting in for RAC members)

Name	Affiliation
Jennifer Adkins	Partnership for Delaware Estuary
Neeraj Batta	Batta Environmental
Michael Hackendorn	Delaware Building and Construction Trades Council
Ronald Handy, Sr.	Boys & Girls Club of Delaware
Ronald “Kimoko” Harris (Designated Alternate for William Ashe)	International Longshoreman's Association 1883
S. Douglas Hokuf, Jr.	New Castle County
Hon. Randy J. Holland	Chair, CZCPA RAC
Tim Konkus	Delaware City Marina and Main Street Delaware City, Inc.
Larry Lambert	Claymont Renaissance Development Corp.
James Maravelias	AFL-CIO
Jerry Medd	Pilots’ Association for the Bay and River Delaware
Mary Peck (Designated Alternate for Brenna Goggin)	Delaware Nature Society
Robert Whetzel	Richards, Layton & Finger
Delores Whildin	Resident of Claymont
Marian Young	BrightFields, Inc.

DNREC staff and other state employees

Name	Affiliation
Terri Brower	Delaware DNREC
Sierra Davis	Delaware DNREC
Dirk Durstein	Delaware DOJ
Judy Jordan	Delaware DNREC
Andrea Kreiner	Delaware DNREC
Susan Love	Delaware DNREC
Bob Scarborough	Delaware DNREC
Jameson Tweedie	Delaware DOJ
Jennifer Walls	Delaware DNREC
Ian Yue	Delaware DNREC

Facilitation and consulting team

Name	Affiliation
Michael Donlan	Industrial Economics, Inc.
Patrick Field	Consensus Building Institute
Rebecca Gilbert	Consensus Building Institute
Sofia Soto Reyes	Consensus Building Institute

Members of the public (including designated alternates not sitting in for RAC members)

Name	Affiliation
Bill Dunn	Civic League for New Castle County
Dan Frattarelli	Self
Paul Morrill	The Committee of 100
Bryon Short	Delaware Contractors Association
David Swayze	Parkowski, Guerke & Swayze
Martin C. Willis	Self

APPENDIX B: DRAFT CZCPA OFFSET RULES AND PRIORITIES

Draft CZCPA Offsets Rules and Priorities

Statute reaffirmations

1. Note that under 7 Del. C. §7014 all offsets shall directly benefit Delaware.
2. The offset proposal must more than offset all environmental impacts (including but not limited to one-time impacts and annual environmental impacts over the duration of the permit OR the useful life of the facility).

Offset priorities (highest priorities at the top of the list)

3. An offset project should be located as close as possible to the site and, to the greatest extent possible be consistent with the negative impact in medium, duration, timing and pollutant.
 - a. For example, if adverse impact is the emission of 10 lb of NO_x annually over the useful life of the plant, the most suitable offset is to reduce another source of NO_x on the site by more than the new emission over the useful life of the plant.
 - b. Or if a new process will emit 90 decibels of noise 12 hours a day over some specified time period, the offset could focus on reducing other sources of noise in the community (e.g., building structures to reduce noise for a nearby highway or facilitating a change in truck routes to reduce truck-related noise in the local community).
4. If the applicant is unable to identify an offset for the same pollutant in the same medium on or close to the site, then they should offset a similar pollutant or environmental impact. “Similar” means a pollutant that has the same type of effect on the environment when it is released (e.g., offset a benzene (VOC) emission that would affect ozone with a different VOC (xylene)).
5. If it is not possible to offset a particular environmental impact on or near the site, then the applicant should identify an offset project for the pollutant in the same medium somewhere else in the Coastal Zone, but as close as possible to the site.
6. If it is not possible to offset the same pollutant or impact somewhere else in the Coastal Zone, then the applicant should search for another location in Delaware, with preference given to potential projects closer to the Coastal Zone.
7. If the applicant is not able to identify an appropriate offset project through the previous steps, they should consider:
 - a. the environmental effect and attempt to identify an offset as close to the site as possible that will counter that negative effect (e.g., if the project could negatively affect waterfowl habitat that can’t be restored or protected, make a donation to a bird rescue and rehabilitation organization); or
 - b. an offset for the same pollutant in a different medium as close to the site as possible (e.g., if the environmental impact is a NO_x emission to the air, then a potential offset project may be to reduce nutrients from storm water in the watershed that is home to the project).

8. If the applicant is not able to identify an appropriate offset project through the previous steps, applicant may propose an alternative environment improvement project of commensurate value to Delaware's coastal resources, as close to the site as possible.
9. Related considerations and recommendations:
 - a. To the extent feasible the offset process should encourage concurrent permitting or consultation to provide administrative efficiencies and facilitate coordination among the applicant and regulators.
 - b. With respect to the location of offset projects, local impacts should be offset locally.
 - c. Minimizing environmental impacts is a priority in the CZCPA process. The offset process is intended to address environmental impacts that cannot be avoided or further minimized.
 - d. The existence of an offset process does not in any way limit DNREC's authority to reject conversion permit applications with environmental impacts determined to be too severe or for which potential offset projects have insufficient nexus.
 - e. The Secretary should provide greater clarity on the process and procedures for demonstrating offset consistency with these rules and priorities.