

19 November 2018

The Honorable Shawn M. Garvin  
Secretary of the Department of Natural Resources and Environmental Control  
Office of the Secretary  
89 Kings Highway  
Dover, Delaware 19901

Dear Mr. Secretary:

In order to provide you with the greatest time to draft regulations for the Department's conversion permits, as directed by the Delaware General Assembly under the Coastal Zone Conversion Permit Act (CZCPA), I am writing to share with you the preliminary recommendations developed by the CZCPA Regulatory Advisory Committee (RAC) at its October 9, 2018, and November 7, 2018 meetings. I anticipate notifying you of any further or updated RAC recommendations, as they are put forth at the Committee's monthly meetings.

The October and November 2018 RAC preliminary recommendations are presented below by topic area.

*Recommendations for Bulk Product Transfer Conversion Permit Requirements (7 Del. C. 2017, § 7014(b))*

Conversion permit regulations should require that:

- The following record keeping conditions apply to conversion permits:
  1. Records of specified bulk product transfer information (e.g., quantity of bulk product transfer, final destination of the product, date of product export) be kept on site at the bulk product transfer facility,
  2. Bulk product transfer of grain only be required to keep records on the quantities and dates of imports and exports, and
  3. A summary of the specified information be submitted to DNREC on an annual basis;
- Conversion permits be written to incorporate product categories, so as to minimize the need for permit modification or new permits for minor, related changes in bulk products imported or exported; and

- Addition of a new bulk product category, not included in the existing permit, may require a permit modification or new permit due to potential impacts on financial assurance or environmental offset.

*Recommendations for the Components of a Plan to Prepare Conversion Permit Sites for Potential Impacts of Sea-Level Rise and Coastal Storms (7 Del. C. 2017, § 7014(c)(5))*

Conversion permit regulations should require that:

- The Plan detail risk, likely impacts, and mitigation measures for the following geographic areas:
  1. The site's shoreline,
  2. Docks, piers, and offshore pipelines,
  3. All remediation areas on-site (including completed remediation areas and those in progress)
  4. All structures on-site, and
  5. Ingress/egress routes;
- The Plan include a discussion of any potential negative impacts to adjacent parcels resulting from development and flood mitigation activities; and .
- The Plan address the following hazards over the anticipated useful facility life:
  1. Flooding, including the:
    - a. 1% chance flood (the current 100-year floodplain as defined by FEMA at the time the conversion permit regulations are promulgated),
    - b. 0.2% chance flood (the current 500-year floodplain as defined by FEMA at the time the conversion permit regulations are promulgated),
    - c. High sea level rise scenario (as defined by the Delaware Sea Level Rise Technical Committee recommendations at the time the conversion permit regulations are promulgated), and
    - d. Combined effect of sea level rise and 1% chance flood;
  2. Shoreline erosion; and
  3. Wind speeds up to 95 mph, sustained (Category 1 hurricane).

*Recommendations for Reporting Economic Effect and Net Economic Improvement on Conversion Permits (7 Del. C. 2017, § 7014(c)(1-3))*

- Conversion permit regulations should define “existing or previous use” to mean the same as “most recent heavy industry use.” Regulations should also hold that “economic effect” and “net economic improvement” use the same economic metrics.

- In order to ensure a commonly understood baseline for economic effect, the State of Delaware will prepare a “baseline report” that will detail the economic effect of the existing or most recent heavy industry use of the 14 sites. The applicant may use this baseline report, plus additional information they want to include, to prepare their conversion permit application.
- Conversion permit regulations should require that the applicant submit economic metrics for the following categories when reporting economic effect and net economic improvement:

<u>Category</u>	<u>Specific Project Information Requested</u>
Project Cost	Remediation, demolition, construction, operations, and capital costs; total investment costs
Tax Revenue	Property tax, gross receipts tax, personal income tax, corporate income tax, and other taxes; conversion permit applicants could be asked to take into account tax incentives or credits received or anticipated, as well as income tax write-offs in the tax numbers provided
Employment	Number of jobs, wages, and occupation distribution for all jobs expected to be created for site preparation, construction, and facility operations
State- and Community-Level Effect	Identification of local hiring preferences; local purchasing preferences; and investments in community benefit agreements, workforce development programs, or educational programs
Other Costs to the State	Tax incentives and credits; required infrastructure investment

- The RAC agreed that DNREC should verify the economic information submitted by the applicant. DNREC may use any number of options for verifying the applicant’s submitted economic effect data and conclusions. These options could include, but are not limited to, applicant-provided data and case studies, state agency review by the appropriate agencies and staff, retention of an expert academic or consulting economist or economics firm, or the establishment of a more formal panel of experts from across the state (state employees and/or others).

*Recommendations for Reporting Environmental Impact and Net Environmental Improvement on Conversion Permits (7 Del. C. 2017, § 7014(c)(1-3))*

- Conversion permit regulations should define “existing or previous use” to mean the same as “most recent heavy industry use.”

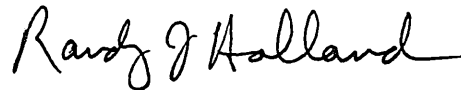
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- In order to provide a commonly understood baseline for environmental impact, the State of Delaware will prepare a “baseline report” that will detail the environmental impact of the existing or most recent heavy industry use of the 14 sites. The applicant may use this baseline report, plus additional information they want to include, to prepare their conversion permit application.

Please note that all of the above preliminary recommendations are subject to change based on feedback received at forthcoming CZCPA Public Workshops to take place in early 2019.

Should you have any questions or need for clarification, please feel free to reach out to me.

Sincerely,



Randy J. Holland  
CZCPA RAC Chair