

Charge of the Economic Effect Work Group

Background Information

The [Coastal Zone Conversion Permit Act](#) (CZCPA), passed by the Delaware General Assembly in 2017, amended the Delaware [Coastal Zone Act](#) (CZA) to provide for development on 14 existing “heavy industry use sites” in the state’s Coastal Zone. Such provisions allow for the “conversion” of these sites to alternative heavy industry use, additional heavy industry use, or a bulk product transfer facility.

All site conversions must be permitted by DNREC through a newly-created “conversion permit”. A Regulatory Advisory Committee (RAC) was convened in June 2018 to provide recommendations to DNREC on how to amend the existing CZA regulations to account for conversion permits.

Role and Scope of the CZCPA Work Groups

The CZCPA RAC is the official body charged with providing recommendations to DNREC on the regulatory approach and content of new CZA regulations that will govern conversion permits.

CZCPA Work Groups are tasked with providing the RAC with a range of *technically feasible options or alternatives* for the RAC to consider. Each option or alternative should have pros and cons clearly delineated. Work Groups are not to determine or recommend a specific option the RAC *should* pursue unless there is only one viable option.

CZCPA Work Group Focus Areas

As of August 2018, four Work Groups have been created, one each to explore the following topics:

- Economic Effect
- Environmental Impact
- Risk Evaluation and Financial Assurance
- (Environmental) Offsets

Note that some of these topics may overlap in scope.

CZCPA Work Group Topic: Economic Effect

The Economic Effect Work Group was assembled to provide technically feasible options for the RAC to consider for the regulatory approach to “economic effect” and “net economic improvement”.

“Economic effect” is a statutorily-defined factor/variable that is required to be considered in conversion permit applications. As defined by the CZA (see [7 Del. C. §7004\(b\)\(2\)](#)), “economic effect” includes:

- the number of jobs created
- 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

While economic effect is defined as above in the CZA, it does not limit the regulations from consideration of other factors.

A conversion permit applicant must address three economic factors (see [7 Del. C. §7014\(c\)\(1\)-\(3\)](#)), specifically:

- The **economic effect** of the *existing or previous use* on the heavy industry use site (Note: The CZA states that, in the case of subsequent conversion permits, the Secretary of DNREC has the discretion to direct the applicant to provide this information for any previous use of the site)
- The **economic effect** of the *alternative or additional heavy industry use or bulk product transfer activity*
- The **net economic improvement** inherent in the alternative or additional heavy industry use or bulk product transfer activity *as compared to* the most recent heavy industry use engaged at the site

It should be noted that “net economic improvement” is not defined in the CZA. That is, the statute does not make clear whether “net economic improvement” of the “alternative or additional heavy industry use or bulk product transfer activity as compared to the most recent heavy industry use” equals the difference between “economic effect” of the “alternative or additional heavy industry use or bulk product transfer activity” and the “economic effect” of the “existing or previous use”. Additionally, it should be noted that “previous use” is not defined in the CZA either.

Charge of the Work Group on Economic Effect

The Economic Effect Work Group is charged with presenting to the RAC a range of technically feasible options for measuring and evaluating “economic effect” and “net economic improvement” as it relates to conversion permits. In the course of its work, the Work Group should feel free to ask questions of the RAC, should there be a need for specific guidance. The Work Group will be provided a technical consultant who will provide research capacity and methodological expertise to the Work Group. A DNREC staff member will also be assigned to the Work Group to serve as coordinator.

Essential questions the Work Group will need to address to provide technically feasible options include:

- What factors can be reasonably included in the scope of “economic effect”?
- Does “net economic improvement” necessarily equal the delta (i.e., change) between the two “economic effect” measurements?
- What are viable baselines for evaluating “net economic improvement”?
- Must the “existing or previous use” for “economic effect” be the same as the “most recent heavy industry use” for “net economic improvement”?
- What questions need to be asked in a conversion permit application to address...
 - ...economic effect of the existing or previous use?
 - ...economic effect of the alternative or additional heavy industry use or bulk product transfer activity?

- ...net economic improvement inherent in the alternative or additional heavy industry use or bulk product transfer activity as compared to the most recent heavy industry use engaged at the site?
- How can the applicant provide economic information to *meaningfully assess* a conversion permit application? That is, how can information be provided in such a way that it allows a DNREC permit analyst to reasonably assess the merit of the application?
- How can DNREC verify the veracity of applicant claims on “economic effect” and “net economic improvement”? For instance:
 - Should the applicant be expected to cite certain standards or literature?
 - Should the applicant be expected to have their information third-party verified?
- What can be done if an applicant cannot produce “economic effect” values for an existing or previous use?

Other questions the Work Group may want to consider include:

- Do we need to assume a specific facility life cycle? If so, what number of years is an appropriate value?
- How can short-term effect (e.g., construction-related jobs) and long-term effect (e.g., ongoing jobs) be measured and reconciled?
- Can “spin-off” jobs from a facility be accounted for? What about an expansion of staff from what was originally anticipated?
- Can community improvement/“good neighbor” factors be considered (e.g., workforce development; workforce diversification; local hiring; uplift to neighborhoods and schools)?
- Can economic effect be considered at different scales (e.g., community vs. county vs. state)?
- Can economic effect account for externalities (e.g., externality costs of pollution on health, loss of business, etc.)?
- Is there an economic threshold that would be considered “enough” to make the project viable?
- Is permittee reporting (annual or otherwise) a reasonable expectation/permit condition (e.g., permittee reporting on sustained employment levels)?

Work Group Outputs

The technical consultant will prepare Work Group outputs on behalf of the Work Group.

Work Group outputs may be most helpful in the form of options for potential approaches and an examination of technical issues and complexities being addressed. This should include outlining the “pros” and “cons” of each of the various options put forth.

Work Group outputs should present options and issues in such a way that the RAC is able to:

- (1) reasonably understand and deliberate the options;

(2) send questions, comments, and/or areas for further exploration to the Work Group that would further refine options; and

(3) use the options, as presented, to make clear recommendations to DNREC on how to draft new CZA regulations.

Schedule and Deadlines

The Work Group will convene in August 2018 and conclude, at the latest, by the end of the calendar year. The Work Group is expected to meet at least once per month, with the option to meet more frequently at its discretion.

The CZCPA RAC meets once per month, and the last opportunity for the Work Group to present options is at the RAC's January 2019 meeting. As such, it is to the Work Group's advantage to present workable outputs and technically feasible options to the RAC as early and often as possible.

The scheduled RAC meetings for the remainder of 2018 are as follows:

- Tuesday, August 21
- Wednesday, September 12
- Tuesday, October 9
- Wednesday, November 7
- Tuesday, December 11

The DNREC staff member assigned to the Work Group will assist in scheduling and running Work Group meetings and ensuring that the Work Group stays on track.