

Charge of the Offsets 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:

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

Note that some of these topics may overlap in scope.

CZCPA Work Group Topic: Offsets

The Offsets Work Group was assembled to provide technically feasible options for the RAC to consider for the regulatory approach to the offset proposal required in 7 Del. C. §7014(c)(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.

Charge of the Work Group on Offsets

The Offset Work Group is charged with presenting to the RAC a range of technically feasible options for evaluating offset proposals for 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:

- How should “more than offset” be defined?
- Should the offset program normalize across media, account for varying toxicity, etc.?
- How should “directly benefit Delaware” be interpreted or defined?
- What will be accepted for offsets?
- Verification – how often and by whom should offsets be verified?
- Can environmental and economic conditions be described by a common denominator, such as dollars?

Other questions the Work Group may want to consider include:

- Should climate change adaptations be allowed as offsets?
- How should addressing local community concerns be incorporated into offsets?

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 of potential approaches and an examination of the technical issues and complexities of each option. 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; or
- (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.