

**Delaware's Coastal Zone Act**  
**North Claymont Area Master Plan**  
**Project Management Committee Meeting**  
**July 28, 2015**

I. The Act

Title 7, Delaware Code, Conservation, Part VII, Natural Resources, Chapter 70,  
Coastal Zone Act

§ 7001 Purpose.

It is hereby determined that the coastal areas of Delaware are the most critical areas for the future of the State in terms of the quality of life in the State. It is, therefore, the declared public policy of the State to control the location, extent and type of industrial development in Delaware's coastal areas. In so doing, the State can better protect the natural environment of its bay and coastal areas and safeguard their use primarily for recreation and tourism. Specifically, this chapter seeks to prohibit entirely the construction of new heavy industry in its coastal areas, which industry is determined to be incompatible with the protection of that natural environment in those areas. While it is the declared public policy of the State to encourage the introduction of new industry into Delaware, the protection of the environment, natural beauty and recreation potential of the State is also of great concern. In order to strike the correct balance between these 2 policies, careful planning based on a thorough understanding of Delaware's potential and the State's needs is required. Therefore, control of industrial development other than that of heavy industry in the coastal zone of Delaware through a permit system at the state level is called for. It is further determined that offshore bulk product transfer facilities represent a significant danger of pollution to the coastal zone and generate pressure for the construction of industrial plants in the coastal zone, which construction is declared to be against public policy. For these reasons, prohibition against bulk product transfer facilities in the coastal zone is deemed imperative.

§ 7002 Definitions.

(b) "Bulk product transfer facility" means any port or dock facility, whether an artificial island or attached to shore by any means, for the transfer of bulk quantities of any substance from vessel to onshore facility or vice versa. Not included in this definition is a docking facility or pier for a single industrial or manufacturing facility for which a permit is granted or which is a nonconforming use. Likewise, docking facilities for the Port of Wilmington are not included in this definition.

(d) "Heavy industry use" means a use characteristically involving more than 20 acres, and characteristically employing some but not necessarily all of such equipment such as, but not limited to, smokestacks, tanks, distillation or reaction columns, chemical processing equipment, scrubbing towers, pickling equipment and waste-treatment lagoons; which industry, although conceivably operable without polluting the environment, has the potential to pollute when equipment malfunctions or human error occurs. Examples of heavy industry are oil refineries, basic steel manufacturing plants, basic cellulosic pulp-paper mills, and chemical plants such as petrochemical complexes. An incinerator structure or facility which, including the incinerator, contains 5,000 square feet or more, whether public or private, is "heavy industry" for purpose of this chapter. Generic examples of uses not included in the definition of "heavy industry" are such uses as garment factories, automobile assembly plants and jewelry and leather goods manufacturing establishments, and on-shore facilities, less than 20 acres in size, consisting of warehouses, equipment repair and maintenance structures, open storage areas, office and communications buildings, helipads, parking space and other service or supply structures required for the transfer of materials and workers in support of off-shore research, exploration and development operations; provided, however, that on-shore facilities shall not include tank farms or storage tanks.

(e) "Manufacturing" means the mechanical or chemical transformation of organic or inorganic substances into new products, characteristically using power-driven machines and materials handling equipment, and including establishments engaged in assembling component parts of manufactured products, provided the new product is not a structure or other fixed improvement.

(f) "Nonconforming use" means a use, whether of land or of a structure, which does not comply with the applicable use provisions in this chapter where such use was lawfully in existence and in active use prior to June 28, 1971.

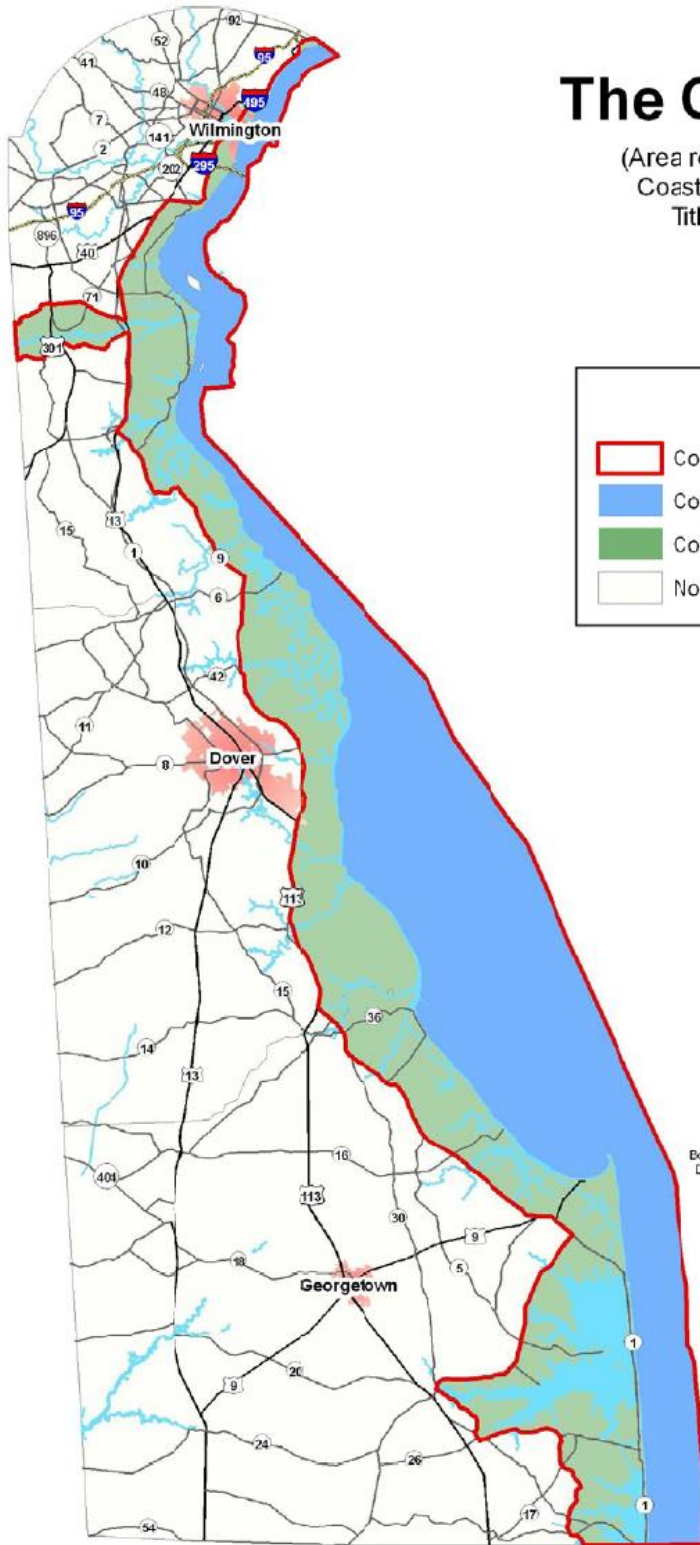
(h) "The coastal zone" is defined as all that area of the State, whether land, water or subaqueous land between the territorial limits of Delaware in the Delaware River, Delaware Bay and Atlantic Ocean, and a line formed by certain Delaware highways and roads as follows:

Beginning at the Delaware-Pennsylvania line at a place where said line intersects U.S. Route 13; thence southward along the said U.S. Route 13 until it intersects the right-of-way of U.S. Route I-495; thence along said I-495 right-of-way until the said I-495 right-of-way intersects Delaware Route 9 south of Wilmington; thence along said Delaware Route 9 to the point of its intersection with Delaware Route 273; thence along said Delaware Route 273 to U.S. 13; thence along U.S. 13 to Maintenance Road 409; thence along Maintenance Road 409 to Delaware Road 71; thence along Delaware Road 71 to its intersection with Delaware Road 54; thence along Delaware Road 54 to Delaware Road 896; thence along Delaware Road 896 to Maintenance

Road 396; thence along Maintenance Road 396 to Maintenance Road 398; thence along Maintenance Road 398 to the Maryland state line; thence southward along the Maryland state line to Maintenance Road 433; thence along Maintenance Road 433 to Maintenance Road 63; thence along Maintenance Road 63 to Maintenance Road 412; thence along Maintenance Road 412 to U.S. 13; thence along U.S. 13 to Delaware 299 at Odessa; thence along Delaware Route 299 to its intersection with Delaware Route 9; thence along Delaware Route 9 to U.S. 113; thence along U.S. Route 113 to Maintenance Road 8A; thence along Maintenance Road 8A to Maintenance Road 7 to the point of its intersection with Delaware Route 14; thence along Delaware Route 14 to Delaware Route 24; thence along Delaware Route 24 to Maintenance Road 331; thence along Maintenance Road 331 to Maintenance Road 334; thence along Maintenance Road 334 to Delaware Route 26; thence along Delaware Route 26 to Maintenance Road 365; thence along Maintenance Road 365 to Maintenance Road 84; thence along Maintenance Road 84 to Maintenance Road 384; thence along Maintenance Road 384 to Maintenance Road 382A; thence along Maintenance Road 382A to Maintenance Road 389; thence along Maintenance Road 389 to Maintenance Road 58; thence along Maintenance Road 58 to Maintenance Road 395; thence along Maintenance Road 395 to the Maryland state line.

# The Coastal Strip

(Area regulated by the Delaware Coastal Zone Act Chapter 70, Title 7, Delaware Code)



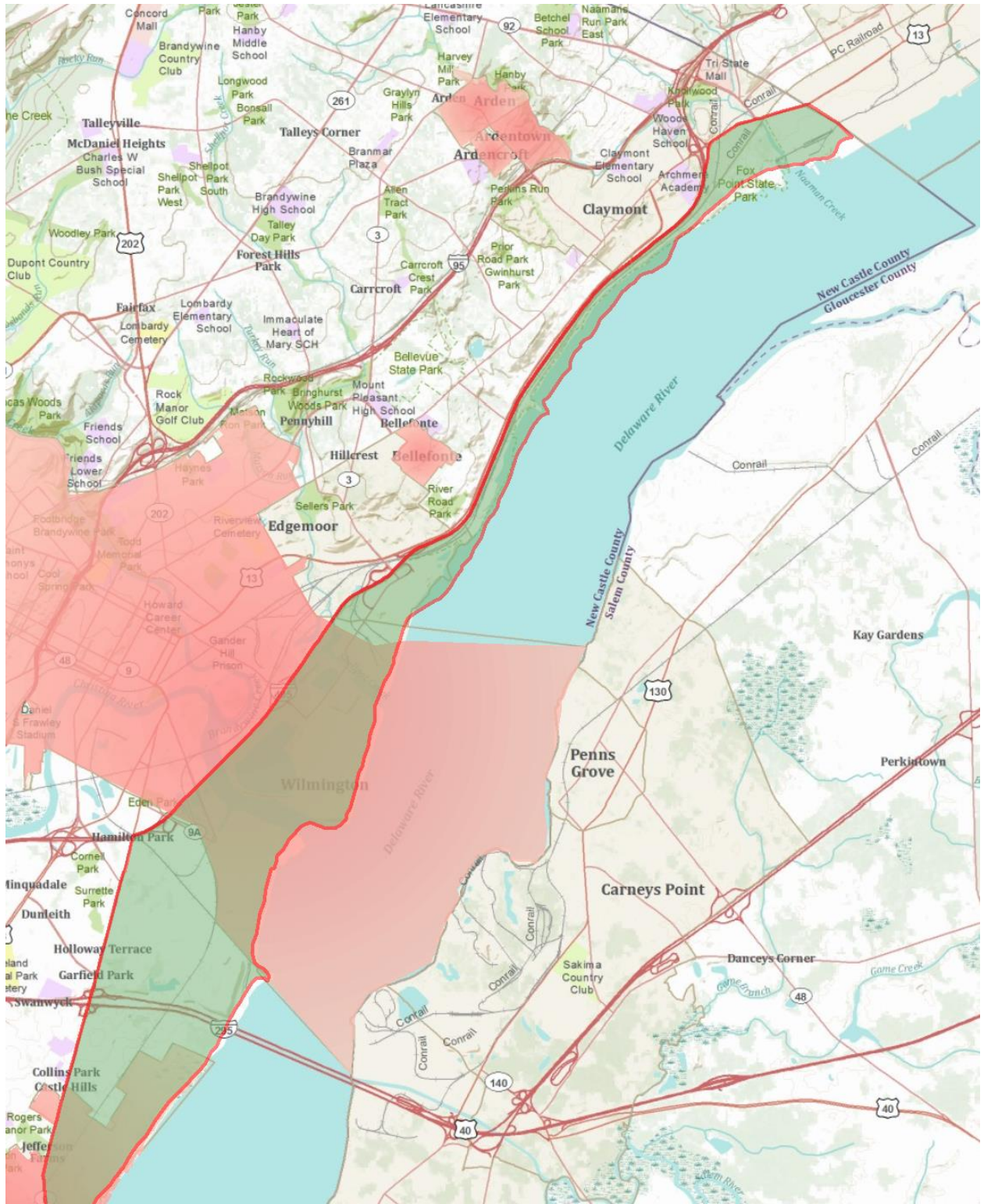
## Legend

-  Coastal Zone
-  Coastal Zone - Water
-  Coastal Zone - Land
-  Not regulated by Coast Zone Act



Boundary at the mouth of the Delaware Bay is in dispute.

This map is prepared primarily for internal DNREC resource management purposes. The information contained hereon is preliminary and is subject to change or modification at any time. Use of this information by others is at their own risk and the DNREC in no way guarantees the accuracy of the information.



## II. The Regulations Governing Delaware's Coastal Zone

Title 7, Delaware Administrative Code, Natural Resources & Environmental Control, Section 100, Office of the Secretary, 101 Regulations Governing Delaware's Coastal Zone

May 11, 1999

### **Preamble**

These regulations have been developed to accomplish two key goals. They have been designed to promote improvement of the environment within the Coastal Zone while also providing existing and new industries in Delaware's Coastal Zone with the flexibility necessary to stay competitive and to prosper – all while adhering to the edicts and nuances of one of the most original and innovative environmental and land use statutes in the world.

Delaware's Coastal Zone Act was passed in 1971 and provides to the Secretary of the Department of Natural Resources and Environmental Control and the Coastal Zone Industrial Control Board the authority to promulgate regulations to carry out the requirements contained within the Act. For numerous reasons, regulations were never adopted and implementation of Coastal Zone Act was left to an undefined and informal process that frustrated industry and environmentalist alike. That frustration further polarized the debate over the original intention of the Act and what the focus of any regulations should be.

Finally, 25 years after passage of the Act, the negative implications of not having regulations came to outweigh the contentiousness of the debate. An advisory committee of dedicated Delawareans was then convened and, after eighteen months of oftentimes difficult debate, came to consensus agreement on how to embody the linked goals of industry flexibility and environmental improvement. The committee's agreements were memorialized in a Memorandum of Understanding between all participants. That MOU was founded on consensus, respect and necessity and it was used as a basis for these regulations.

### **3.0 Definitions**

Many terms which appear in these regulations are defined in the Coastal Zone Act as shown in Appendix E. Terms not defined in the Act shall have the following meanings:

**“Administratively Complete”** means a coastal zone permit application or status decision request that is signed, dated, and contains, in the opinion of the Secretary, substantive responses to each question, a sufficient offset proposal, if applicable,



and includes the appropriate application fee and all enclosures the applicant has referenced in the application.

**“Board”** means the State Coastal Zone Industrial Control Board.

**“Bulk Product”** means loose masses of cargo such as oil, grain, gas and minerals, which are typically stored in the hold of a vessel. Cargoes such as automobiles, machinery, bags of salt and palletized items that are individually packaged or contained are not considered bulk products in the application of this definition.

**“Certify”** means the applicant is attesting, by affirmation, that all the data and other information in the application is true and accurate.

**“Department”** means the Delaware Department of Natural Resources and Environmental Control.

**“Docking Facility”** means any structures and/or equipment used to temporarily secure a vessel to a shoreline or another vessel so that materials, cargo, and/or people may be transferred between the vessel and the shore, or between two vessels together with associated land, equipment, and structures so as to allow the receiving, accumulating, safekeeping, storage, and preparation of cargoes for further shipment, and administrative maintenance purposes directly related to such receiving, accumulating, safekeeping, storage, and preparation of cargoes for further shipment.

**“Environmental Indicator”** means a numerical parameter which provides scientifically-based information on important environmental issues, conditions, trends, influencing factors and their significance regarding ecosystem health. Indicators inherently are measurable, quantifiable, meaningful and understandable. They are sensitive to meaningful differences and trends, collectible with reasonable cost and effort over long time periods, and provide early warning of environmental change. They are selected and used to monitor progress towards environmental goals.

**“Footprint”** means the geographical extent of non-conforming uses as they existed on June 28, 1971 as depicted in Appendix B.

**“Port of Wilmington”** means those lands contained with the footprint shown in Appendix B of these regulations.

**“Potential to Pollute”** means the proposed use has the potential to cause short and long term adverse impacts on human populations, air and water quality, wetlands, flora and fauna, or to produce dangerous or onerous levels of glare, heat, noise, vibration, radiation, electromagnetic interference and obnoxious odors as determined

in the applicant's Environmental Impact Statement accompanying the permit application. The Department will consider mitigating controls and risk management analysis reports from the applicant in evaluating a proposed use's potential to pollute. The Department shall consider probability of equipment failure or human error, and the existence of backup controls if such failure or error does occur, in evaluating an applicant's potential to pollute.

**“Public Recycling Plant”** means any recycling plant or industrial facility whose primary product is recycled materials and which is owned and operated by any city, town, county, district or other political subdivision.

**“Public Sewage Treatment Plant”** means any device and/or system used in conveyance, storage, treatment, disposal, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature, which systems are under the jurisdiction of a city, town, county, district or other political subdivision.

**“Recycle”** means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from or otherwise diverted from the solid waste stream for use in the form of raw materials other than fuel for producing heat or power combustion.

**“Research and Development Activity”** means those activities in which research and development substances are used in quantities that are not greater than reasonably necessary for the purposes of scientific experimentation or product or process development. The research and development substances must either be the focus of research and development itself, or be used in the research and development activity focusing on another chemical or product. Research and development includes synthesis, analysis, experimentation or research on new or existing chemicals or products. Research and development encompasses a wide range of activities which may occur in a laboratory, pilot plants or commercial plant, for testing the physical, chemical, production, or performance characteristics of a substance, conducted under the supervision of a technically qualified individual. Research and development is distinct from ongoing commercial activities which focus on building a market for a product rather than just testing its market potential. General distribution of chemical substances or products to consumers does not constitute research and development.

**“Secretary”** means the Secretary of the Department of Natural Resources and Environmental Control.

**“Vessel”** means any ship, boat or other means of conveyance that can transport goods or materials on, over, or through water.



**“Voluntary Improvements”** means improvements, for example, in emissions reductions, habitat creation and spill prevention -- provided that each is definite and measurable and which were made by a facility without any federal or state requirement to do so.

#### **4.0 Prohibited Uses**

The following uses or activities are prohibited in the Coastal Zone:

4.1 Heavy industry use of any kind not in operation on June 28, 1971.

4.2 Expansion of any non-conforming uses beyond their footprint(s) as depicted in Appendix B of these regulations.

4.3 Offshore gas, liquid, or solid bulk product transfer facilities which were not in operation on June 28, 1971.

4.4 The conversion of an existing unregulated, exempted, or permitted facility to a heavy industry use.

4.5 Bulk product transfer facilities and pipelines which serve as bulk transfer facilities that were not in operation on June 28, 1971.

4.6 The conversion or use of existing unregulated, exempt, or permitted docking facilities for the transfer of bulk products.

4.7 The construction, establishment, or operation of offshore gas, liquid, or solid bulk product transfer facilities which were not in operation on June 28, 1971.

4.8 Individual pipelines or sets of pipelines which are not associated with a use that obtains a permit but which meet the definition of bulk product transfer facilities.

4.9 Any new tank farm greater than 5 acres in size not associated with a manufacturing use is prohibited as a new heavy industry use.

#### **5.0 Uses Not Regulated**

The construction and/or operation of the following types of facilities and/or activities shall be deemed not to constitute initiation, expansion or extension of heavy industry or manufacturing uses under these regulations:

5.1 The raising of agricultural commodities or livestock.

5.2 Warehouses or other storage facilities, not including tank farms.

5.3 Tank farms of less than five acres.

5.4 Parking lots or structures, health care and day care facilities, maintenance facilities, commercial establishments not involved in manufacturing, office buildings, recreational facilities and facilities related to the management of wildlife.

5.5 Facilities used in transmitting, distributing, transforming, switching, and otherwise transporting and converting electrical energy.

5.6 Facilities used to generate electric power directly from solar energy.

5.7 The repair and maintenance of existing electrical generating facilities providing such repair or maintenance does not result in any negative environmental impacts.

5.8 Back-up emergency and stand-by source of power generation to adequately accommodate emergency industry needs when outside supply fails.

5.9 The continued repair, maintenance and use of any non-conforming bulk product transfer facility where that facility transfers the same products and materials, regardless of the amount of such products or materials, as those transferred on June 28, 1971.

5.10 Bulk product transfer operations at dock facilities owned by the Diamond State Port Corp.(DSPC), or acquired by the DSPC at any time in the future, and which are located within the Port of Wilmington as shown in Appendix B.

5.11 Docking facilities used as bulk product transfer facilities located on privately owned lands within the Port of Wilmington which have been granted a status decision extending the bulk product transfer exemption prior to the effective date of these regulations.

5.12 Docking facilities which are not used as bulk product transfer facilities.

5.13 Any pipeline that originates outside the Coastal Zone, traverses the Coastal Zone without connecting to a manufacturing or heavy industry use and terminates outside the Coastal Zone.

5.14 Maintenance and repair of existing equipment and structures.

5.15 Replacement in-kind of existing equipment or installation of in-line spares for existing equipment.

5.16 Installation and modification of pollution control and safety equipment for nonconforming uses within their designated footprint providing such installation and modification does not result in any negative environmental impact over and above impacts associated with the present use.

5.17 Any facilities which have received, prior to the promulgation of these regulations, a status decision which provided an exemption for the activity in question.

5.18 Research and development activities within existing research and development facilities.

5.19 Any other activity which the Secretary determines, through the status decision process outlined in Section 7.0 of these regulations, is not an expansion or extension of a nonconforming use or heavy industry use.

5.20 Public Sewage Treatment Plants subject to regulation by the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et. seq. and/or the Delaware Environmental Protection Act, 7 **Del.C.**, Chapter 60.

## **5 DE Reg. 930 (10/01/01)**

### **6.0 Uses Requiring a Permit**

The following uses or activities are permissible in the Coastal Zone by permit. Permits must be obtained prior to any land disturbing or construction activity.

6.1 The construction of pipelines or docking facilities serving as offshore bulk product transfer facilities if such facilities serve only one on-shore manufacturing or other facility. To be permissible under these regulations, the materials transferred through the pipeline or docking facilities must be used as a raw material in the manufacture of other products, or must be finished products being transported for delivery.

6.2 Any recycling plant or sewage treatment plant not excluded by Section E(20) of the Regulations.

6.3 Any new activity, with the exception of those listed in Section 5.0 of these regulations proposed to be initiated after promulgation of these regulations by an existing heavy industry or a new or existing manufacturing facility that may result in any negative impact on the following factors as found in 7 **Del.C.** §7004 (b):

6.3.1 Environmental impact, including but not limited to, items 8.2.1 through 8.2.10 of these regulations.

6.3.2 Economic effect, including the number of jobs created and 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.

6.3.3 Aesthetic effect, such as impact on scenic beauty of the surrounding area.

6.3.4 Number and type of supporting facilities required and the impact of such facilities on all factors listed in this subsection.

6.3.5 Effect on neighboring land uses including, but not limited to, effect on public access to tidal waters, effect on recreational areas and effect on adjacent residential and agricultural areas.

6.3.6 County and municipal comprehensive plans for the development and/or conservation of their areas of jurisdiction.

#### **5 DE Reg. 930 (10/01/01)**

### **7.0 Requests for Status Decisions**

7.1 Any person wishing to initiate a new activity or facility may request a status decision to determine whether or not the activity or facility is a heavy industry.

7.2 A person whose proposed activity is not exempted as specified in Section 5.0 above may request of the Secretary a status decision to determine whether or not the proposed activity requires a Coastal Zone permit under the Act or these regulations.

7.3 Status decision requests must be in writing on a form supplied by the Secretary and shall include, at a minimum, the following:

7.3.1 Name, address and contact person for the activity or facility under consideration.

7.3.2 Site of proposed activity marked on a map or site plan.

7.3.3 A detailed description of the proposed activity under consideration.

7.3.4) An impact analysis of the proposed project on the six (6) criteria contained in Section 6.3 (1-6) above.

7.4 Any new manufacturing facility or research and development facility proposed to be sited in the Coastal Zone shall apply for a status decision.

7.5 The Secretary may, if he has cause to suspect an activity within the confines of the Coastal Zone is prohibited or should receive a permit under these regulations, request of the person undertaking that activity to apply for a status decision as described in this section. Failure of the person to respond to the

Secretary's request shall subject said person to enforcement procedures as contained in the Act and/or Section 18.0 of these regulations.

7.6 Upon receipt of an administratively complete request for a status decision, the Secretary shall publish a legal notice as prescribed in Section 14.0 of these regulations advising the public of the receipt of the request and allowing 10 business days for interested persons to review the request and provide the Secretary with input on whether a permit should be required of the applicant.

7.7 The Secretary shall then, within an additional 15 business days, determine whether or not a permit will be required and notify the applicant in writing of his determination. The Secretary shall publish that determination as a legal notice as prescribed in Section 14.0 of these regulations.

## **8.0 Permitting Procedures**

### **8.1 Application Contents**

The applicant shall complete and submit to the Secretary three (3) identical copies of the Coastal Zone permit application. The application will be on a form supplied by the Secretary and will contain, at a minimum:

8.1.1 A certification by the applicant that the information contained with the application is complete, accurate and truthful.

8.1.2 Evidence of local zoning approval as required by section 7004 (a) of the Act.

8.1.3 An Environmental Permit Application Background Statement as required under 7 Del.C. Ch. 79, if applicable.

8.1.4 An Environmental Impact Statement as described in Section 8.2 of these regulations.

8.1.5 A description of the economic effects of the proposed project, including the number of jobs created and the income which will be generated by the wages and salaries of these jobs and the amount of tax revenues potentially accruing to State and local government.

8.1.6 A description of the aesthetic effects of the proposed project, such as impact on scenic beauty of the surrounding area.

8.1.7 A description of the number and type of supporting facilities required and the impact of such facilities on all factors listed in this section.

8.1.8 A description of the effect on neighboring land uses including, but not limited to, effect on public access to tidal waters, effect on recreational areas and effect on adjacent residential and agricultural areas.

8.1.9 A statement concerning the project or activity's consistency with county and municipal comprehensive plans.

8.1.10 An offset proposal if required under Section 9.1.1 of these regulations.

## 8.2 Environmental Impact Statement

An environmental impact statement must be submitted with the Coastal Zone permit application and must contain, at a minimum, an analysis of the following:

8.2.1 Probable air, land and water pollution likely to be generated by the proposed use under normal operating conditions as well as during mechanical malfunction and human error. In addition, the applicant shall provide a statement concerning whether, in the applicant's opinion, the project or activity will in any way result in any negative environmental impact on the Coastal Zone.

8.2.2 An assessment of the project's likely impact on the Coastal Zone environmental goals and indicators, when available. Coastal Zone environmental goals and indicators shall be developed by the Department after promulgation of these regulations and used for assessing applications and determining the long-term environmental quality of the Coastal Zone. In the absence of goals and indicators, applicants must meet all other requirements of this section.

8.2.3 Likely destruction of wetlands and flora and fauna.

8.2.4 Impact of site preparation on drainage of the area in question, especially as it relates to flood control;

8.2.5 Impact of site preparation and facility operations on land erosion;

8.2.6 Effect of site preparation and facility operation on the quality and quantity of surface and ground water resources,

8.2.7 A description of the need for the use of water for processing, cooling, effluent removal, and other purposes;

8.2.8 The likelihood of generation of glare, heat, noise, vibration, radiation, electromagnetic interference and/or obnoxious odors,.

8.2.9 The effect of the proposed project on threatened or endangered species as defined by the regulations promulgated by the State or pursuant to the Federal Endangered Species Act, and,

8.2.10 The raw materials, intermediate products, byproducts and final products and their characteristics from material safety data sheets (MSDS's) if available, including carcinogenicity, mutagenicity and/or the potential to contribute to the formation of smog.

## 8.3 Application Review Process

8.3.1 The Department reserves the right to request further relevant information after receipt of an application and prior to the application being deemed

administratively complete. The Secretary shall notify the applicant by certified mail when the application is deemed administratively complete.

8.3.2 In assessing an application, the Secretary shall consider how the proposed project will affect the six criteria cited in the Act, including direct and cumulative environmental impacts, economic effects, aesthetic effects, number and type of supporting facilities and their anticipated impacts on these criteria, effect on neighboring land uses, and compatibility with county and municipal comprehensive plans.

8.3.3 The Secretary shall also consider any impacts the proposed activity may have on the Department's environmental goals for the Coastal Zone and the environmental indicators used to assess long-term environmental quality within the zone.

8.3.4 Prior to public hearing, the Secretary shall provide a written assessment of the project's likely impact on the six criteria listed in Section 8.1 above and make available the preliminary determination of the sufficiency of the offset project as required in Section 9.0 of these regulations. The Secretary's report will be provided to the applicant and interested citizens prior to the public hearing and made a part of the record.

8.3.5 Upon receipt of an administratively complete application and completion of the Secretary's assessment as required in Section 8.3.4 above, the Secretary shall issue a public notice as prescribed in Section 14.0 of these regulations and hold a public hearing in accordance with hearing procedures described in Section O of these regulations.

8.3.6 Within 90 days of receipt of an administratively complete application, not counting the day the application became administratively complete, the Secretary shall reply to the request for a Coastal Zone act permit either granting the permit, denying the permit or granting the permit but with special conditions. The Secretary shall state the reasons for his decision.

8.3.7 The permit decision shall be sent to the applicant by certified mail and shall be noticed as prescribed in Section 14.0 of these regulations. If no appeal is received within the 14-day appeal period following the date of publication of the legal notice, the decision becomes final and no appeal will be accepted.

## **9.0 Offset Proposals**

### **9.1 Offset Proposal Requirements**

9.1.1 Any application for a Coastal Zone permit for an activity or facility that will result in any negative environmental impact shall contain an offset proposal. Offset proposals must more than offset the negative environmental impacts associated with the proposed project or activity requiring a permit. It is the responsibility of the applicant to choose an offset project that is clearly and demonstrably more beneficial to the environment in the Coastal Zone than the harm done by the negative environmental impacts associated with the permitting activities themselves.



9.1.2 All applicants are required to more than offset the negative impacts of the project or activity that is the subject of the application for a Coastal Zone permit. Applicants who have undertaken past voluntary improvements may be required to provide less of an offset than applicants without a similar record of past achievements.

9.1.3 The Secretary shall give preference to offset projects that are within the Coastal Zone, that occur in the same environmental medium as the source of degradation of the environment, that occur at the same site as the proposed activity requiring a permit and that occur simultaneously with the implementation of the proposed activity needing an offset.

9.1.4 Offset proposals should be well-defined and contain measurable goals or accomplishments which can be audited by the Department.

9.1.5 Within 30 days of receipt of an application, the Secretary shall make a preliminary determination as to whether the proposed offset commitment is sufficient. If the offset commitment is deemed not to be sufficient, the applicant will be informed that his application is not administratively complete and the Secretary shall request another offset proposal.

9.1.6 Where an offset project in itself requires one or more permits from a program or programs within DNREC, the Secretary shall issue the Coastal Zone Permit only after all applicable permit applications for offsetting projects have been received and deemed administratively complete by DNREC.

## 9.2 Offset Proposal Contents

The applicant may provide whatever materials or evidence deemed appropriate in order to furnish the Secretary with the information necessary for him to determine the adequacy of the offset proposal. The applicant must provide, at a minimum, the following information:

9.2.1 A qualitative and quantitative description of how the offset project will more than offset the negative impacts from the proposed project as provided by the applicant pursuant to Section 8.2.1 of these regulations.

9.2.2 How the offset project will be carried out and in what period of time.

9.2.3 What the environmental benefits will be and when they will be achieved.

9.2.4 How the offset will impact the attainment of the Department's environmental goals for the Coastal Zone and the environmental indicators used to assess long-term environmental quality within the zone.

9.2.5 What, if any, negative impacts are associated with the offset project.

9.2.6 What scientific evidence there is concerning the efficacy of the offset project in producing its intended results.

9.2.7 How the success or failure of the offset project will be measured in the short and long term.

### 9.3 Enforcement Of Offset Proposals

9.3.1 Coastal Zone permits shall be approved contingent upon the applicant carrying out the proposed offset in accordance with an agreed upon schedule for completion of the offset project. Said schedule will be included in the Coastal Zone permit as an enforceable condition of the permit.

9.3.2 Should a Coastal Zone permit applicant fail to receive, within 180 days of issuance of the Coastal Zone permit, any and all permits required to undertake an offset project, the applicant, except for good cause shown by the applicant for additional time, will be required to submit an entirely new application for the activity, including all submissions listed in Section H above, additional permit fees and a new proposed offset project.

# Coastal Zone permit process

