



## The League of Women Voters of Delaware Supports THE COASTAL ZONE ACT OF 1971

### Overall view of the Act

- Delaware's Coastal Zone, established by the Coastal Zone Act (CZA) on June 28, 1971, is **roughly 2-7 miles wide and 115 miles long**, extending along the eastern shore of Delaware from Wilmington down to the state's southern boundary. The Coastal Zone includes the banks of the C&D Canal within Delaware.
- The **law originated in Russell Peterson's love of bird watching** and subsequent desire to save the beautiful coastline. Several unsuccessful challenges to the Act have arisen over the years: in 1974, in 1977, and in 1984. An uphill battle even initially, the CZA is often seen by businesses as a threat, but citizen support for the Act has been sufficient to counter the "anti-business" arguments of its opponents. At each challenge, Peterson urged people to save their coast; he said the Chamber of Commerce should be censured for saying that Delaware's CZA made Delaware anti-business.
- The **Regulations** for the Act were not **passed** until May 11, 1999.
- The Environmental Indicators Technical Advisory Committee issued its recommendations for the establishment of Goals and Indicators in March, 1999. **The Goals and Indicators have never been implemented by DNREC**, and there is therefore no baseline upon which to measure improvement or degradation of the CZ environment. DNREC has recently issued a report on the possibility of setting up goals and indicators for the entire state.<sup>1</sup>
- The **CZA prohibits** the construction of new heavy industry in the Coastal Zone, although 14 industrial sites existing at the time the CZA was passed are grandfathered. The CZA also prohibits offshore bulk transfer facilities in the CZ outside the Port of Wilmington.
- The Secretary and the Coastal Zone Industrial Control Board (CZICB) **must consider these elements** when reviewing permit requests: 1) environmental impact; 2) economic effect; 3) aesthetic effect; 4) Number and type of supporting facilities required; 5) effect on neighboring land uses; 6) county and municipal comprehensive plans.
  - Each CZ permit application must include an "**offset proposal**" which clearly demonstrates that its proposal more than offsets the applicant's new polluting emissions, resulting in a net reduction of pollution in the CZ. Emissions are multiplied by 1.3 to compute level of required offsets.

**Current issues** are largely in the enforcement of the CZA and its Regulations:

- DNREC has failed to institute the legally required Goals and Indicators<sup>2</sup>;
- DNREC makes little or no attempt to monitor offsets to make sure they are continually in place;
- DNREC does not include carbon dioxide as a pollutant that must be offset; there is no easily accessible means of a public understanding of the ERC trading and granting process.
- DNREC's Secretary recently issued a permit for the Delaware City Refinery Corporation to transship ethanol from its plant. The DCRC is simply acting as a middleman for the ethanol, with no value added as the product arrives by rail and ships out by barge. This permit was issued in spite of the specific prohibition in the Act against bulk transfer on the river. The LWVDE, with the Audubon Society, is currently involved in a legal protest against this ruling.

**The League urges the Governor to convene an advisory committee made up of environmentalists, business interests, and prominent public citizens, led by an independent facilitator, and supported by DNREC, to review the Coastal Zone Act and its Regulations and to recommend any needed changes.**

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<sup>1</sup> Stephanie Miles, "Development of Environmental Indicators for DNREC: Phase One; Feasibility and Potential Use," 2016, Delaware Department of Natural Resources and Environmental Control.

<sup>2</sup> An environmental indicator is "a numerical parameter which provides scientifically-based information on important environmental issues, conditions, trends... collectible with reasonable cost and effort over long time periods.... used to monitor progress towards environmental goals." Coastal Zone Regulations 3.0