



STATE OF DELAWARE  
**DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL**

OFFICE OF THE  
SECRETARY

89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

PHONE: (302) 739-9000  
FAX: (302) 739-6242

**Secretary's Order No. : 2015-CZ-0028**

**RE: Application of Techmer Engineered Solutions, LLC, for a Coastal Zone Act Permit to manufacture uniform, compounded, engineering plastic resin pellets in an existing steel and masonry commercial structure located at 1600 Johnson Way in the Centerpoint Business Complex, New Castle, Delaware**

Date of Issuance: **July 30, 2015**

Effective Date: **July 30, 2015**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control (Department" or "DNREC") pursuant to 7 *Del.C.* §§6001 *et seq.*, 7 *Del.C.* §§7001 *et seq.*, and the Department's Coastal Zone Act Regulations, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced Coastal Zone Act permitting proceeding.

**Background, Procedural History and Findings of Fact**

The Applicant, Techmer Engineered Solutions, LLC ("Applicant", "Techmer"), a formulator/compounded plastic resin production company, seeks a Coastal Zone Act ("CZA") Permit to lease the vacant portion (approximately 85,000 square feet) of an existing 121,246 square foot steel and masonry commercial structure, located at 1600

*Delaware's Good Nature depends on you!*

Johnson Way, Centerpoint Business Complex, New Castle, Delaware, for its proposed project, to wit: retrofitting said existing space to accommodate the extrusion process to manufacture uniform, compounded, engineering plastic pellets. This proposed manufacturing process uses electrically-heated extruder lines to blend melted raw materials (thermoplastic resins and additives), which are extruded in strands and chopped into pelletized plastics produced per customer specifications. The final plastic product is composed of 75% non-hazardous engineered polymers and 25% hazardous organic and inorganic pigments, plastic stabilizers, and product specific enhancers.

Techmer currently operates three similar factories within the United States (including one location in Aston, Pennsylvania), with its headquarters is located in Clinton, Tennessee. Environmental impacts are anticipated with this proposed facility in New Castle, Delaware, and the same will be discussed in detail below. The Applicant's offset proposal consists of eight (8) emission reduction credits obtained from the Delaware Economic Development Office, which will cover the Applicant's start-up emissions as well as future emissions from the projected growth of the facility.

The Department requires a CZA applicant to set forth in its application the proposed project's possible environmental impacts, including, but not limited to, any increased air emissions of pollutants, water quality/water quantity/water use, and the disposal of solid and hazardous wastes. Furthermore, any application for a CZA permit for an activity or facility that will result in any negative environmental impact shall contain an offset proposal, which will more than offset the proposed negative impacts of any proposed project.

In the present matter, Techmer's proposed project will result in air emissions similar to that of its current operating process lines at the Applicant's existing facility located in Aston, Pennsylvania. Techmer estimates an eventual maximum total emission output of 5.5 tons per year (combined volatile organic compounds ["VOCs"] and particulate matter ["PMs"] from anticipated growth). In addition, solid waste consisting of plastic resin purging, packaging materials, floor sweepings, and household-type waste will be generated. This solid waste will be disposed of through a licensed disposal company. A stream of contact cooling water that produces relatively small amounts (approximately 165 gallons per quarter) of non-hazardous oily sludge will be containerized in drums and removed off-site by Gemini Services or a similarly authorized contractor. No other environmental impacts are anticipated.

Techmer has estimated that approximately 25 contractors will be temporarily hired in order to retrofit the interior of the existing building, and that approximately 75 full-time employees will be hired to work on-site once the facility is fully operational. There will be no new supporting facilities and/or services required to support the proposed project, and effects on neighboring uses will be minimal, as the proposed facility will be located in an existing industrial park. Lastly, the proposed facility and operation is consistent with the City of New Castle's Comprehensive Plans.

With respect to needed offset proposals obtained by the Applicant in this matter, Techmer has obtained eight (8) emission reduction credits (4 ozone season and 4 non-ozone season) from the Delaware Economic Development Office ("DEDO") as its offset in this matter. As noted previously, these offsets will not only cover the Applicant's

start-up emissions at this time, but future emissions from the projected growth of the facility as well.

The Department provided public notices of this CZA Application submission and the determination of an administratively complete application following the Secretary's Assessment, which was signed on June 25, 2015. CZA Regulation 8.3.6 requires that the Secretary shall, within ninety (90) days of receipt of an administratively complete application, reply to the request for a CZA permit by "...either granting the permit, denying the permit, or granting the permit, but with special conditions. The Secretary shall state the reasons for his decision." In the present instance, the ninety (90) day deadline is September 23, 2015.

A duly noticed public hearing was held on July 21, 2015, at the DNREC offices located at 391 Lukens Drive, New Castle, Delaware. Public comments were received by the Department at the time of said public hearing, and the same were thoroughly addressed by the Division of Energy and Climate, as reflected in the hearing record generated in this matter. Subsequent to the public hearing of July 21, 2015, the Department's presiding Hearing Officer, Lisa A. Vest, prepared a Hearing Officer's Report dated July 29, 2015 ("Report").

#### **Reasons and Conclusions**

Based on the record developed by the Department's experts and established by the Hearing Officer's Report, I find and conclude that the record developed in this matter supports approval of Techmer Engineered Solutions, LLC's application for its CZA permit, as consistent with the intent of the CZA and its regulations, which is to balance the economic and environmental interests of the State of Delaware. Therefore, the

recommendations of the Hearing Officer are hereby adopted, and I direct that the currently pending CZA Permit Application of Techmer Engineered Solutions, LLC, to construct and operate a facility for the on-site manufacture of ethylene oxide from ethanol feedstock in a continuous multi-step catalyzed process, be *granted*.

Accordingly, I direct that a Coastal Zone Act permit be issued to the Applicant, and that the following reasons and conclusions are entered:

1. The Department has jurisdiction under its statutory authority to issue a CZA Permit to the Applicant, subject to reasonable permit conditions deemed appropriate and consistent with the CZA's purposes;
2. The Department provided adequate and lawful public notice of the Coastal Zone Act Application of Techmer Engineered Solutions, LLC, and of the public hearing held on July 21, 2015, and held said hearing to consider any public comment that may be offered on the application, in a manner required by the law and regulations;
3. The permit applied for by Techmer Engineered Solutions, LLC, is for production/manufacturing activities which will take place within the defined Coastal Zone of Delaware, and is for a new manufacturing activity, the operation of which will take place will take place inside the currently vacant portion (approximately 85,000 square feet) of an existing 121,246 square foot steel and masonry commercial structure, located at 1600 Johnson Way, Centerpoint Business Complex, New Castle, Delaware, within the Coastal Zone of Delaware, which requires a CZA permit for the same, to wit: retrofitting said existing space to accommodate the extrusion process to

manufacture uniform, compounded, engineering plastic pellets. Environmental impacts are anticipated, however, the Applicant's offset proposal of eight (8) emission reduction credits obtained from the Delaware Economic Development Office will more than achieve the offset required under Delaware's Coastal Zone Regulations;

4. The Department has carefully considered the factors required to be weighed in issuing a CZA permit, and finds that the proposed use is appropriate for the Coastal Zone at the proposed location, and that it should be permitted as set forth in Techmer's application;
5. The Department shall issue a permit to the Applicant, Techmer Engineered Solutions, LLC, and said permit shall include all conditions consistent with the final Order and any other reasonable conditions that the Department includes in a CZA permit, to ensure that Delaware's environment will be protected from harm, consistent with the CZA and its regulations;
6. The Department has carefully considered all the statutory factors to be considered in making a decision on a CZA permit and those required to be considered under the CZA regulations;
7. This Proposed Facility will allow the Applicant to operate its business while reducing the overall environmental impacts to the Coastal Zone area, in furtherance of the purposes of 7 *Del. C.*, Ch. 70;

8. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary;
9. The Department shall serve and publish its Order on all affected persons in a manner consistent with the service and publication of Secretary's Order.



David S. Small  
Secretary



DELAWARE  
COASTAL ZONE ACT  
PERMIT

NUMBER: 421

ISSUED TO: Techmer Engineered Solutions, LLC

TO PERMIT: The manufacturing of uniform, compounded, engineering plastic resin pellets.

SITE LOCATION: 1600 Johnson Way, Centerpoint Business Complex, New Castle

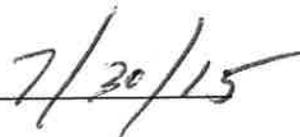
Conditions Incorporated and Made Part of this Permit:

1. This permit is conditional upon the Permittee's compliance with all other applicable permit requirements, regulations and laws of the State of Delaware.
2. Issuance of this permit does not relieve the Permittee of the legal obligation of complying with all building permits, subdivision and other applicable code requirements of the county or municipality wherein the permitted project is located.
3. If there are significant deviations from the plan and operations approved by the Secretary, the Permittee shall notify the Secretary as soon as possible. This permit may be revoked and a new permit application required if the Secretary deems the deviation to substantially change the nature or scale of the project and to be of actual or probable harm to the purposes of the Coastal Zone Act.

Signature: \_\_\_\_\_



Date: \_\_\_\_\_



David S. Small, Secretary

Department of Natural Resources & Environmental Control



## HEARING OFFICER'S REPORT

**TO:** The Honorable David S. Small  
Cabinet Secretary, Department of Natural Resources and Environmental Control

**FROM:** Lisa A. Vest   
Public Hearing Officer, Office of the Secretary  
Department of Natural Resources and Environmental Control

**RE:** **Application of Techmer Engineered Solutions, LLC, for a Coastal Zone Act Permit to manufacture uniform, compounded, engineering plastic resin pellets in an existing steel and masonry commercial structure located at 1600 Johnson Way in the Centerpoint Business Complex, New Castle, Delaware**

**DATE:** July 29, 2015

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### **I. BACKGROUND AND PROCEDURAL HISTORY:**

On Tuesday, July 21, 2015 at 6:00 p.m., a public hearing was held at the DNREC office located at 391 Lukens Drive, New Castle, Delaware, in order to receive comment on Techmer Engineered Solutions, LLC's ("Applicant", "Techmer") application for a permit from DNREC under its authority in the Coastal Zone Act ("CZA"), 7 Del. C., Ch. 70. The CZA regulates new manufacturing activities, or the expansion of existing manufacturing uses, within Delaware's "Coastal Zone", which is a geographic area along the Delaware Bay and Atlantic Ocean Coastlines, as defined by the CZA. This hearing was held pursuant to the aforementioned Delaware Coastal Zone Act and Delaware's *Regulations Governing Delaware's Coastal Zone*.

Pursuant to this Applicant's CZA permit application received by the Department on June 1, 2015<sup>1</sup>, Techmer, a formulator/compounded plastic resin production company, seeks permission to lease the vacant portion (approximately 85,000 square feet) of an existing 121,246 square foot steel and masonry commercial structure, located at 1600 Johnson Way, Centerpoint

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<sup>1</sup> The receipt date does not determine when an application is deemed administratively complete, pursuant to CZA Regulations 8.3.1 and 8.3.6. The application was deemed administratively complete on June 25, 2015, which began a 90 day time period in which the Department must render its decision concerning this matter.

Business Complex, New Castle, Delaware, for its proposed project, to wit: retrofitting said existing space to accommodate the extrusion process to manufacture uniform, compounded, engineering plastic pellets. This proposed manufacturing process uses electrically-heated extruder lines to blend melted raw materials (thermoplastic resins and additives), which are extruded in strands and chopped into pelletized plastics produced per customer specifications. The final plastic product is composed of 75% non-hazardous engineered polymers and 25% hazardous organic and inorganic pigments, plastic stabilizers, and product specific enhancers.

Techmer currently operates three similar factories within the United States (including one location in Aston, Pennsylvania), with its headquarters is located in Clinton, Tennessee. Environmental impacts are anticipated with this proposed facility in New Castle, Delaware, and the same will be discussed in detail below. The Applicant's offset proposal consists of eight (8) emission reduction credits obtained from the Delaware Economic Development Office, which will cover the Applicant's start-up emissions as well as future emissions from the projected growth of the facility.

The Department requires a CZA Applicant to set forth in its application the proposed project's possible environmental impacts, including, but not limited to, any increased air emissions of pollutants, water quality/water quantity/water use, and the disposal of solid and hazardous wastes. Furthermore, any application for a CZA 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 proposed environmental impacts of any proposed project<sup>2</sup>.

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<sup>2</sup> CZA Regulation 9.0, "Offset Proposals".

In the present matter, Techmer's proposed project will result in air emissions similar to that of its current operating process lines at the Applicant's existing facility located in Aston, Pennsylvania. Techmer estimates an eventual maximum total emission output of 5.5 tons per year (combined volatile organic compounds ["VOCs"] and particulate matter ["PMs"]) from anticipated growth. In addition, solid waste consisting of plastic resin purging, packaging materials, floor sweepings, and household-type waste will be generated. This solid waste will be disposed of through a licensed disposal company. A stream of contact cooling water that produces relatively small amounts (approximately 165 gallons per quarter) of non-hazardous oily sludge will be containerized in drums and removed off-site by Gemini Services or a similarly authorized contractor. No other environmental impacts are anticipated.

Techmer has estimated that approximately 25 contractors will be temporarily hired in order to retrofit the interior of the existing building, and that approximately 75 full-time employees will be hired to work on-site once the facility is fully operational. There will be no new supporting facilities and/or services required to support the proposed project, and effects on neighboring uses will be minimal, as the proposed facility will be located in an existing industrial park. Lastly, the proposed facility and operation is consistent with the City of New Castle's Comprehensive Plans.

With respect to needed offset proposals obtained by the Applicant in this matter, Techmer has obtained eight (8) emission reduction credits (4 ozone season and 4 non-ozone season) from the Delaware Economic Development Office ("DEDO") as its offset in this matter. As noted previously, these offsets will not only cover the Applicant's start-up emissions at this time, but future emissions from the projected growth of the facility as well.

The Department provided public notices of this CZA Application's submission and the determination of an administratively complete application following the Secretary's Assessment, which was signed on June 25, 2015. CZA Regulation 8.3.6 requires that the Secretary shall, within ninety (90) days of receipt of an administratively complete application, reply to the request for a CZA permit by "...either granting the permit, denying the permit, or granting the permit, but with special conditions. The Secretary shall state the reasons for his decision." In the present instance, the ninety (90) day deadline is September 23, 2015. Consequently, as noted above, the Department held a public hearing on July 21, 2015, at the DNREC offices located at 391 Lukens Drive, New Castle, Delaware. Public comments were received by the Department at the time of said public hearing, and the same will also be discussed in greater detail below.

**II. SUMMARY OF THE PUBLIC HEARING RECORD:**

The public hearing record consists of the following exhibit documents, which are hereby marked by this Hearing Officer as follows: (1) a verbatim transcript; (2) five documents (with Index List) introduced at the public hearing by Kevin Coyle, Principal Planner, DNREC Division of Energy and Climate as Department Exhibits 1-5; (3) hard copy of the Applicant's PowerPoint presentation offered at the public hearing on July 21, 2015; (4) written comment from Peggy Schultz on behalf of the League of Women Voters of Delaware, dated July 21, 2015, previously marked as "Schultz Exh. #1"; and (5) Technical Response Memorandum dated July 29, 2015, written by Phil Cherry, Director, DNREC Division of Energy and Climate, as requested by this Hearing Officer, in response to the concerns voiced by Ms. Schultz at the time of the hearing.

The Department's person primarily responsible for reviewing the CZA Application, Kevin Coyle, developed the record with the relevant documents in the Department's files.

The Department's person primarily responsible for reviewing the CZA Application, Kevin Coyle, developed the record with the relevant documents in the Department's files. Representatives of Techmer were present at the hearing, including, but not limited to, Tom Drye, Managing Director for the Applicant in this matter. Following opening remarks from Mr. Coyle on behalf of the Department (and the introduction of the Department's exhibits to be entered into the hearing record), Mr. Drye proceeded to offer a very thorough presentation on behalf of the Applicant for the benefit of the record regarding this proposed project. At the conclusion of the Applicant's presentation, the floor was then opened for the purpose of offering public comment on the record regarding Techmer's proposed project.

There were three members of the public attending the aforementioned hearing on June 21, 2015, two of which offered comment regarding the Applicant's proposed project. On behalf of the League of Women Voters of Delaware, Peggy Schultz voiced concern not specifically about Techmer's proposed project or its pending CZA permit application, but instead questioned DNREC's Environmental Impact Offset Matrix and the Department's overall review process as it relates to pending CZA permit applications. Specifically, Ms. Schultz raised the issue that carbon dioxide emissions are not considered by the Department when reviewing projected air emissions from proposed projects that plan to operate in Delaware's Coastal Zone. Additionally, Ms. Schultz did voice concern over the possible offensive odor that might result from Techmer's proposed plastics extrusion process. The other member of the public to offer comment at this hearing was Michael McConnell, representing Centerpoint Business Complex (the industrial business park to which Techmer proposes to locate). Mr. McConnell voiced full support of the Applicant's proposed project.

While a thorough discussion of the Department's entire "air emissions offset process" is outside the specific scope of this pending CZA permitting matter, a brief response from the Department was merited, for the benefit of the record in this matter, as to how carbon emissions are considered (if at all) during the offset review process of a pending Coastal Zone permit application. To that end, a Technical Response Memorandum ("TRM") was requested by this Hearing Officer from the Department's Division of Energy and Climate, so that the above public concern regarding carbon emissions, as voiced at the Techmer CZA Permit public hearing, may be fully addressed and incorporated into the formal hearing record in this matter. Phil Cherry, Director of the Division of Energy and Climate, provided the requested TRM on July 29, 2015.

Mr. Cherry's TRM does an excellent job of responding to Ms. Schultz's concerns, and discusses the same in a thorough and balanced manner. Set forth within this TRM are the reasons as to why DNREC has never required offsets for carbon dioxide (CO<sub>2</sub>), as the Department typically does for other criteria pollutants (such as NO<sub>x</sub>, SO<sub>2</sub>, PM, and VOCs), as well as a brief discussion regarding the creation, retirement and granting of Emission Offset Credits as governed by 7 DE Admin. Code 1134, the *Emission Banking and Trading Program* promulgated by DNREC's Division of Air Quality. This TRM also briefly discusses the relationship between DNREC and DEDO insofar as the tracking of these emission credits for economic development in the Coastal Zone, and provides reference as to how credits are created, banked and used, pursuant to 7 DE Admin. Code 1134. Therefore, the Secretary may get an in-depth understanding of this record by reading Mr. Cherry's TRM, which is hereby expressly incorporated into this report, and attached hereto as Appendix "A".

### **III. RECOMMENDED FINDINGS AND CONCLUSIONS:**

This application is for a permit issued under the CZA. Preliminarily, I find that Techmer's facility is located within Delaware's "Coastal Zone", and that the proposed project would represent a new manufacturing activity, the operation of which will take place inside the currently vacant portion (approximately 85,000 square feet) of an existing 121,246 square foot steel and masonry commercial structure, located at 1600 Johnson Way, Centerpoint Business Complex, New Castle, Delaware, within the Coastal Zone of Delaware, which requires a CZA permit for the same, to wit: retrofitting said existing space to accommodate the extrusion process to manufacture uniform, compounded, engineering plastic pellets.

The Department is to evaluate a CZA application based upon a consideration of the CZA's balancing of economic and environmental factors. The CZA requires the Department to consider the following issues of any given proposed project: (1) environmental impacts; (2) economic impacts; (3) aesthetic impacts; (4) the number and type of supporting facilities required and their impacts on all other factors; (5) the impact on neighboring land uses; and (6) the county and municipal comprehensive plans. 7 *Del.C.* §7004.

The record developed in this matter indicates that the Department's experts have considered the above factors, and have recommended issuance of a permit to the Applicant in this matter. Further, the experts recommended that the application was sufficient, and that, while the Applicant's proposed project will create environmental impacts, Techmer has obtained eight (8) emission reduction credits (4 ozone season and 4 non-ozone season) from the Delaware Economic Development Office ("DEDO") as its offset in this matter. As noted previously, these offsets will not only cover the Applicant's start-up emissions at this time, but future emissions

from projected growth of the facility as well. I agree with the recommendations of the Department's experts.

Based on the record developed, I find and conclude that the Applicant has adequately demonstrated its compliance with all requirements of the Delaware Coastal Zone Act Regulations and Statutes, as noted herein, and that the record supports approval of Techmer's CZA permit application. In conclusion, I recommend that a Coastal Zone Permit consistent with the record developed in this matter be issued by the Department in the customary form, and with appropriate conditions, to ensure continued improvement of environmental quality in the Coastal Zone of the State of Delaware.

Further, I recommend the Secretary adopt the following findings and conclusions:

1. The Department has jurisdiction under its statutory authority to issue a CZA Permit to the Applicant, subject to reasonable permit conditions deemed appropriate and consistent with the CZA's purposes;
2. The Department provided adequate and lawful public notice of the Coastal Zone Act Application of Techmer Engineered Solutions, LLC, and of the public hearing held on July 21, 2015, and held said hearing to consider any public comment that may be offered on the application, in a manner required by the law and regulations;
3. The permit applied for by Techmer Engineered Solutions, LLC, is for production/manufacturing activities which will take place within the defined Coastal Zone of Delaware, and is for a new manufacturing activity, the operation of which will take place will take place inside the currently vacant portion (approximately 85,000 square feet) of an existing 121,246 square foot steel and masonry commercial structure, located at 1600 Johnson Way, Centerpoint Business Complex, New Castle,

Delaware, within the Coastal Zone of Delaware, which requires a CZA permit for the same, to wit: retrofitting said existing space to accommodate the extrusion process to manufacture uniform, compounded, engineering plastic pellets. Environmental impacts are anticipated, however, the Applicant's offset proposal of eight (8) emission reduction credits obtained from the Delaware Economic Development Office will more than achieve the offset required under Delaware's Coastal Zone Regulations;

4. The Department has carefully considered the factors required to be weighed in issuing a CZA permit, and finds that the proposed use is appropriate for the Coastal Zone at the proposed location, and that it should be permitted as set forth in Techmer's application;
5. The Department shall issue a permit to the Applicant, Techmer Engineered Solutions, LLC, and said permit shall include all conditions consistent with the final Order and any other reasonable conditions that the Department includes in a CZA permit, to ensure that Delaware's environment will be protected from harm, consistent with the CZA and its regulations;
6. The Department has carefully considered all the statutory factors to be considered in making a decision on a CZA permit and those required to be considered under the CZA regulations;
7. This Proposed Facility will allow the Applicant to operate its business while reducing the overall environmental impacts to the Coastal Zone area, in furtherance of the purposes of 7 *Del. C.*, Ch. 70;

8. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary;
9. The Department shall serve and publish its Order on all affected persons in a manner consistent with the service and publication of Secretary's Order.



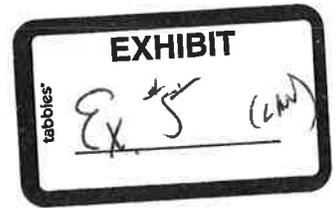
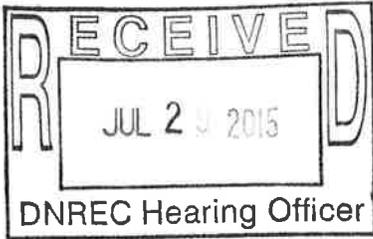
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LISA A. VEST  
Public Hearing Officer

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Attachments/Appendix:  
Appendix A: TRM, Phil Cherry (7/29/15)

## **APPENDIX “A”**



**Technical Response Memorandum  
Techmer Coastal Zone Permit**

TO: Lisa Vest, DNREC Hearing Officer  
FROM: Philip Cherry, Director, Division of Energy and Climate  
DATE: July 29, 2015

You have asked for a Technical Response Memorandum specifically addressing concerns expressed by the League of Women Voters, by Peggy Schultz.

In re-reading her comments, I've responded to two issues as noted below:

1. In her written comment, Ms. Schultz notes that carbon dioxide emissions have been excluded from the Department's consideration of the air emissions associated with Techmer's proposed project. Ms. Schultz also references that "...Section 9.1.1 of the Regulations require offsets for any negative environmental impacts. It is clear that carbon dioxide emissions are themselves negative environmental impacts. It is imperative that the Coastal Zone Act be implemented in a manner that includes carbon dioxide as a harmful pollutant. This is not a policy decision. It's simply a matter of enforcement of law of the land."

**Response:** I have either directly administered the Regulations Governing Delaware's Coastal Zone or supervised other staff who served as the Coastal Zone Act Administrator for the past 15 years. I was the principal author of the regulations back in 1998 that were ultimately adopted by the Coastal Zone Industrial Control Board. I have personal knowledge of all but a few Coastal Zone permits and status decisions that have been issued since the regulations were adopted. Since that time, DNREC has never required offsets for Carbon Dioxide (CO<sub>2</sub>), as we typically do for other criteria pollutants such as Oxides of Nitrogen (NO<sub>x</sub>), Sulfur Dioxide (SO<sub>2</sub>), Particulates (PM) or Volatile Organic Compounds (VOC's). This is due to several reasons as follows:

- A. CO<sub>2</sub> was not legally considered a contaminant at the time the regulations were adopted and the concept of offsets was developed.
- B. CO<sub>2</sub> was not considered in the goals and indicators effort conducted in the late 1990's, nor was climate change or Sea Level Rise (SLR).
- C. While it's clear CO<sub>2</sub> is now considered a contaminant of global significance, its release in Delaware's air is not a health concern for Delaware and does not significantly impact air or water quality in Delaware's Coastal Zone, or attainment of

national or state air quality standards. Its release into the environment has no effect on the immediate surrounding community, as is the case for pollutants like NO<sub>x</sub>, SO<sub>2</sub>, PM and VOC's. The Coastal Zone program, therefore, treats CO<sub>2</sub> differently than other pollutants, and has since the regulations were adopted.

D. We fully recognize that CO<sub>2</sub> emissions contribute to global warming, ocean acidification, SLR and other Climate concerns, some of which can impact our Coastal Zone; however, to make a change now, 17 years since promulgation of the regulations, would require a formal amendment of the regulations, and we are reluctant to take that action at this time.

E. Unlike many other contaminants for which we require offsets, there is no commercially available treatment technology for CO<sub>2</sub>, making it difficult for industries in the Coastal Zone to impact their CO<sub>2</sub> emissions, other than to reduce the combustion of fuels, which may or may not be possible.

2. Additionally, at the conclusion of her written statement, Ms. Schultz states the following: "...the whole DEDO/ERC process is difficult for the public to follow. A new concern is: who audits the process to make sure that Emission Reduction Credits granted to businesses are actually available?"

**Response:** The Coastal Zone Act Program has a lengthy history of allowing the use of emission offset credits to be used as offsets for new activities in the Coastal Zone. The creation, retirement and granting of Emission Offset Credits are governed by Regulation 1134, the Emission Banking and Trading Program promulgated by DNREC's Division of Air Quality. Ms. Shultz should read the Regulation. It's very clear how credits are created, banked and used. Further, in section 8.5.2 of the Regulations is stated the following:

*8.5.2 Credit for emission reductions generated by shutdowns will be reduced by the value of 50% of the total reductions. 25% of the total reductions will be retired to provide a net air quality benefit and 25% will be held in a separate account by the Delaware Economic Development Office for economic development purposes after certification by the Department pursuant to 8.6 of this regulation.*

The Delaware Economic Development Office (DEDO) works with the Division of Air Quality to track the quantity of emission contained in the DEDO account and DEDO uses those credits for their intended purpose, for "economic development" in the Coastal Zone where, for instance, new manufacturing uses wishing to locate in the Coastal Zone, who have no footprint or current emissions from which to reduce, utilize these credits to meet offset requirements under the Coastal Zone Regulations.

