

Delaware¹

State Authority for Marine Protection

Summary of State Authorities

Delaware has long-standing authority to acquire and manage coastal land and water resources through its Land Protection Act; authority to acquire, designate and manage coastal land and water resources through its state parks system, as well as its natural areas preservation system and wildlife management areas; authority to protect habitat through fishery regulations; and the state's Coastal Zone Act provides protection of the state's land, water, and subaqueous land resources in the coastal strip through zoning and permitting regulations.

	Marine Fisheries Management	Natural Areas Preservation System	Delaware Land Protection Act	State Wildlife Areas	State Parks
Legal requirement	Applies fishery regulations to specific coastal resources	Allows state acquisition, designation, and management of natural areas	Allows state acquisition and zone management of open spaces	Designates wildlife refuge areas and regulates extraction of living resources	Allows state acquisition and regulation of recreational water and land resources
Citation	Del. Code Ann. tit. 7, §901 et seq (1995)	7 Del. C. §7301(1978); 7 Del. Admin. Code 5104-5.6.1.1.8 (2010)	7 Del. C. §7501 (1990); 7 Del. C. Admin. Code 5104-5.13 (2010)	7 Del. C. §§ 102-103 (2009); 7 Del. Admin. Code § 3900 (1999)	7 Del. C. §4701 (1952); 7 Del. Admin. Code 9201-24.0 (2014)
Designation authority	DNREC	DNREC	DNREC	DNREC, Division of Fish and Wildlife (DFW)	Delaware General Assembly
Management & enforcement authority	DNREC, Division of Fish and Wildlife (DFW), Delaware Citizens Advisory Committee	DNREC, Office of Nature Preserves, Delaware Natural Areas Advisory Council	DNREC, Delaware Open Space Council, local governments	DNREC, DFW	DNREC, Division of Parks and Recreation
Jurisdiction & boundaries	Tidal waters of the State, including some designated rivers and tributaries	Waters and land of the State, waters not defined	<i>Open lands</i> of the state defined by statute	Any designated land or water within state boundary	Any land or water within state park boundary
Prohibited uses	No specific prohibitions;	Specific types of dredging projects	Development not compatible	Hunting/fishing prohibited by	Hunting/fishing prohibited by

¹ This state chapter is part of a 23-state assessment of state and local authority for marine protection. It should be read in conjunction with the Executive Summary, Introduction and Methodology Chapters in order to fully understand the scope and approach. Other chapters are available at www.eli-ocean.org/mpa.

	Marine Fisheries Management	Natural Areas Preservation System	Delaware Land Protection Act	State Wildlife Areas	State Parks
	however, authority to regulate fishing	defined by regulation	with DNREC planning	regulations specific to each area	regulation
Permitted uses	None identified	None defined	Developments compatible with DNREC designated natural areas	Hunting and fishing allowed by regulations and non-extractive recreations	Activities as allowed by state regulations

The entire state of Delaware is considered a coastal management area for the purposes of the federally approved Coastal Management Program.² Delaware’s jurisdiction over its coastal waters and submerged lands extends three nautical miles seaward.³ The Department of Natural Resources and Environmental Control (DNREC) is the ultimate regulatory authority for activities within the state’s coastal waters, and the DNREC issues permits and leases authorizing usage, designates natural areas and wildlife management areas, and enforces laws and regulations.

Marine Fisheries Management

Delaware fisheries are managed as non-tidal finfish (non-marine), tidal finfish (marine) and shellfish. To manage and conserve tidal finfish fishery resources, state law grants DNREC and the Delaware Citizens Advisory Committee (DCAC) authority to apply fishery regulations to specific coastal resources in accordance with the Interstate Fisheries Management Plan.⁴ The Division of Fish and Wildlife regulates both commercial and recreational harvest of marine fish species. DNREC Division of Fish and Wildlife, with the concurrence of the DCAC, imposes specific take restrictions according to particular species, site location and season.⁵ For example, the Nanticoke River system, the Chesapeake and Delaware Canal are designated as regulated Striped Bass Spawning Areas.⁶ Thereby, the DNREC forbids fishing for striped bass or otherwise setting up gill nets for any reason in the spawning areas during spawning seasons.⁷

Section 903 specifies that the Department may only promulgate specific types of regulations. Area-based authorities include time/area closures for bait fish, striped bass spawning area protection, time/area closures for specific bays and tributaries, and gear restrictions within artificial reef sites.⁸ In addition, the Department can establish area-based restrictions on a species based as long as such regulations align with the Interstate Fisheries Management Plan (or for species in Delaware River and Delaware Bay are developed in conjunction with the State of New Jersey).⁹ A third provision provides

² 7 Del. Admin. Code 5104-1.3
³ See Submerged Lands Act of 1953, 43 U.S.C. §§ 1301-1315.
⁴ 7 Del. C. §901(a)-(d) (1995).
⁵ 7 Del. C. §903 (2010).
⁶ 7 Del.C. § 930 (2013).
⁷ 7 Del. Admin. Code § 3502 (2013).
⁸ 7 Del.C. § 903(d)(1) (2013).
⁹ 7 Del.C. § 903(d)(2) (2013).

broad authority for the Department to “promulgate such other regulations” that are deemed necessary for finfish and marine mammals as long as they are consistent with management plans approved by the U.S. Department of Commerce.¹⁰

In addition to tidal finfish, the Department regulates shellfish production and leasing. These provisions prohibit leasing shellfish grounds that are within 1,000 feet of the natural shoreline with the exception of Delaware’s Inland Bay and natural oyster beds.¹¹ Furthermore, the Department is authorized to restrict the harvest on natural oyster beds.¹² In addition, Section 2304-2305 limits commercial crabbing to a subset of bays and estuaries in the state as well as establishing seasonal closures. Similar types of requirements apply to the harvest of clams, lobster, conch and horseshoe crabs.¹³

Natural Areas Preservation System

The Natural Areas Preservation System (NAPS) allows the state to establish nature preserves for scientific and conservation purposes, including the protection of plant and animal habitats.¹⁴ Natural area preserves are established via a two-step process: first the DNREC establishes and maintains a Registry of Natural Areas (Registry); and second, some of those areas are designated as natural preserves.¹⁵ A nature preserve is a natural area; either public or privately-owned land or water, or a combination of both¹⁶ that “retains or has reestablished its natural character... or has unusual flora and fauna, or has biotic, geological, scenic or archaeological features or scientific or educational value.”¹⁷ Any person or entity, public or private, may nominate a site to be a state-registered natural area and may also request an existing site to be delisted.¹⁸

NAPS enables the DNREC to acquire titles or conservation easements in natural areas from private or public entities.¹⁹ The dedication of a natural area as a “nature preserve” is a voluntary action taken by the landowner with tax incentives and conservation advice provided by the state.²⁰ Dedication of nature areas as nature preserves also requires the guidance and concurrence of the Delaware Natural Areas Advisory Council (Advisory Council) and consultation with the Office of Nature Preserves²¹ in order to be managed by the DNREC and listed as a preserve in the Registry.^{22,23} Designations can be revoked,²⁴ though state agency designations in practice have remained permanent.

¹⁰ 7 Del.C. § 903(d)(3) (2013).

¹¹ 7 Del. C. § 1905 (b) (2013) .

¹² 7 Del. C. § 2102 (2013) .

¹³ 7 Del. C. §§ 2401 et seq, 2501 et seq, 2701 et seq, 2801 et seq (2013) .

¹⁴ 7 Del.C. § 7303(3) (2013).

¹⁵ 7 Del. Admin. Code 9202-3.5 (2013).

¹⁶ 7 Del. C. § 7302(5) (2013).

¹⁷ Del. Admin. Code 9202-2.0 (2013); 7 Del.C. § 7302(5) (2013).

¹⁸ 7 Del. Admin. Code 9202-2.0; 3.0; 3.3 (2013).

¹⁹ 7 Del.C. § 7307(1) (2013).

²⁰ See 7 Del. Admin. Code 9202

²¹ 7 Del. Admin. Code § 9202-3.5 (2013).

²² 7 Del.C. § 7305 (2013).

²³ 7 Del.C. § 7306 (2013).

²⁴ 7 Del. Admin. Code § 9202-2.0 (2013).

A map of all natural areas within Sussex County demonstrates that most of the coastal environment is considered part of the natural areas of the state.²⁵ However, with the potential exception of tidal waters and coastal wetlands, it appears that no waters are designated specifically as natural areas. Therefore, while nothing in the statute bars the identification of the marine environment as a natural area, in practice this has not occurred in one of the three counties in Delaware.

Land Protection Act

The Land Protection Act (LPA) promotes preservation of any open space, including coastal lands, water and riparian rights, through interagency and local cooperation.²⁶ First, LPA gives authority to state agencies, including the DNREC, to “acquire any interest in real property to carry out and expand the intent of the conservation program.”²⁷ Second, the DNREC is granted power to dispense funds to local governments for conservation projects.²⁸ Lastly, the Act requires local governments to regulate and restrict developments in areas that the state deems to contain important natural resources.²⁹

Under LPA, the Delaware Open Space Council, composed of citizens of the state, and DNREC are responsible for designating lands and waters as “state resource areas” for the inclusion in the open space program.³⁰ Open spaces are designated as resource areas based on their “natural, historic, or open space values.”³¹ DNREC also must designate all resource areas based on specific criteria as determined by the Delaware Open Space Council, in conjunction with the interagency working group.³² Once an area is listed as state resource area, counties must regulate and protect the natural integrity of these areas from developments.³³ There is nearly 200,000 acres of protected state resources, a large part of which are considered coastal Natural Areas.³⁴ In these areas, agricultural and recreational uses are generally allowed, but significant commercial and industrial uses are not.³⁵

State Wildlife Areas

DNREC designates State Wildlife Areas (SWAs) through its general authority to manage and conserve all forms of regulated state wildlife.³⁶ SWAs or refuges are any land or water body of the state, whether in public or private ownership, designated by DNREC in the interest of conservation of wildlife.³⁷ Several

²⁵ Urban Research & Development Corporation, Bethlehem, PA, Sussex County Comprehensive Plan Update, Woodlands and Natural Areas (2008).

²⁶ 7 Del. C. § 7504(5)-(6) (2013).

²⁷ 7 Del. C. § 7503(a) (2013).

²⁸ 7 Del.C. § 7509 (2013).

²⁹ 7 Del.C. § 7508 (2013).

³⁰ 7 Del.C. § 7506(1) (2013); 7 Del.C. § 7507(a)(1) (2013); 7 Del.C. § 7504(12) (2013).

³¹ 7 Del.C. § 7507(a)(2) (2013).

³² 7 Del.C. § 7507 (2013).

³³ 7 Del.C. § 7508 (2013); *see also* Cartanza v. Delaware Dept. of Natural Resources and Environmental Control, Not Reported, 2008 WL 4682653, 6 (2008).

³⁴ *See* Delaware Open Spaces and Natural Places website, available at <http://www.dnrec.delaware.gov/OpenSpaces/Pages/SRA.aspx> (last visited June 18, 2014); Kent County, DE, 2007 Kent County Comprehensive Plan, Map 8-3 (2007).

³⁵ Kent County, 2-14 to 2-15, *supra* at note **Error! Bookmark not defined.**

³⁶ 7 Del. Admin. Code § 3900-8.2.7 (1999); 7 Del.C. § 101 *et seq* (2013).

³⁷ 7 Del. Admin. Code § 3900-1.0 (1999).

SWAs are located near or on the coast.³⁸ Take of wildlife in a SWA is prohibited by default.³⁹ However, most SWAs allow regulated take of game species.⁴⁰

State Parks

The DNREC has authority to acquire, designate and regulate recreational water and land resources.⁴¹ Some state parks, such as Pea Patch Island (Fort Delaware) are designated specifically by statute,⁴² and others are designated through the discretion of the DNREC under the state parks' enabling act.⁴³ DNREC has the primary responsibility to manage the state parks.⁴⁴ Violation of the DNREC regulations will lead to civil fines and damage restitution.⁴⁵ Serious violations may even lead to criminal charges.⁴⁶ Under DNREC regulations, hunting and fishing are generally prohibited unless specially authorized by the department.⁴⁷ Most activities such as swimming, camping, and driving are subjected to regulations.⁴⁸

Other Authorities

Permitting Requirements in the Marine Environment

Several Delaware laws establish permitting requirements for activities and development that affect the marine environment, including oil and mineral extraction, wetlands impacts, and leasing of submerged lands, among others. For example, the State of Delaware requires a permit for activities affecting subaqueous lands in Delaware, including tidal lands and submerged lands.⁴⁹

The Wetlands Act declares that “the coastal areas of Delaware are the most critical areas for the present and future quality of life in the State and that the preservation of the coastal wetlands is crucial to the protection of the natural environment of these coastal areas.”⁵⁰ The Act requires permits for any activity in or adjacent to public or private wetlands.⁵¹ And the Act requires the Secretary of DNREC to

³⁸ See <http://www.dnrec.delaware.gov/fw/Hunting/Documents/WMA%20Maps%202012/STATE%20OVERVIEW.pdf> (last visited June 18, 2014).

³⁹ 7 Del. Admin. Code § 3900-8.2.7 (2013).

⁴⁰ Available at

<http://www.dnrec.delaware.gov/fw/Hunting/Documents/WMA%20Maps%202012/MN%20Rawleys%20Island.pdf> (last visited May 8th, 2013).

⁴¹ 7 Del. C. § 4701(a)(2013).

⁴² 7 Del.C. § 4703 (2013).

⁴³ 7 Del.C. § 4701(a) (2013); see also Delaware State Park Website available at: <http://www.destateparks.com/> (last visited Jun. 25th, 2013); see also 7 Del. Admin. Code § 9201-23.6.1 (2013) (Delaware Administrative Code does not contain any formal declaration for the designation of most state parks listed on the website, and statutes do not mention the dedication of these parks either; however, the state has promulgated regulations restricting various aspect of these parks; the state most likely manages these state parks as sovereign land owner in pursuance of the state parks' enabling act).

⁴⁴ *Id.* at (c).

⁴⁵ 7 Del.C. § 4702(a) (2013).

⁴⁶ *Id.*

⁴⁷ 7 Del. Admin. Code § 9201-24.1 (2013).

⁴⁸ 7 Del. Admin. Code § 9201-1.0 *et seq.* (2013).

⁴⁹ 7 Del. C. § 7205(2014).

⁵⁰ 7 Del. C. § 6602 (2014). (however, the following activities do not require a permit: “[m]osquito control activities authorized by the Department; construction of directional aids to navigation; duck blinds; foot bridges; the placing of boundary stakes; wildlife nesting structures; grazing of domestic animals; haying; hunting; fishing and trapping” § 6606).

⁵¹ 7 Del. C. §§ 6604(b), 6602, 6603(a)(2), 6119, 4001.

consider environmental impact, aesthetic effects, impacts of supporting facilities, effects on neighboring land uses, comprehensive plans and conservation areas, and economic effects.⁵²

Like wetlands, the state recognizes private and public beaches as a valuable resource and establishes a permitting program to manage development on and use of beaches.⁵³ Specifically it requires permits for placing structures on beaches, removing or depositing significant amounts of beach or other materials, operating vehicles, and construction on beaches.⁵⁴

Coastal Zone Act

The Delaware Coastal Zone Act was passed in 1971 and purposed to protect coastal areas of Delaware by regulating the location, extent, and type of industrial development.⁵⁵ The coastal zone is defined as the area between the state’s littoral limits and particular roads and highways within the state that are parallel to shore.⁵⁶ The Act specifically prohibits heavy industry uses in the coastal zone, including offshore gas, liquid or solid bulk transfer facilities.⁵⁷ In concurrence with the Coastal Zone Industrial Control Board, DNREC must consider environmental impacts, economic effects, aesthetic effects, number and type of facilities required, effects on neighboring land, county and municipal plans, and county and municipal conservation areas when issuing a permit or determining zoning regulations.⁵⁸ Violation of the Act and corresponding regulations can result in fines up to \$50,000.⁵⁹

Evaluation of State Authorities⁶⁰

FACTORS	Fisheries Management	Natural Areas Preservation System	Delaware Land Protection Act	State Wildlife Areas	State Parks
Legal Regime	★★★★ Regulatory	★★ Incentive-based	★★★ Planning	★★★★★ Regulatory	★★★★★ Regulatory
Ocean Jurisdiction	★★★★★ All designated tidal waters, including marine waters	★★★★★ All designated marine waters	★★★★★ Any land or water body of the state	★★★★★ Any land or water body of the state	★★★★★ Any land or water body of the state
Durability	★★ Indeterminate	★★ Indeterminate	★★ Indeterminate	★★ Indeterminate	★★ Indeterminate

⁵² 7 Del. C. § 6604(b)(2014); 7 Del C. § 6801 (1984).

⁵³ 7 Del. C. § 6801 et seq. (2014).

⁵⁴ 7 Del. C. § 6805 (2014).

⁵⁵ 7 Del.C. § 7001 et seq. (2013).

⁵⁶ 7 Del.C. § 7002(h) (2013).

⁵⁷ 7 Del.C. § 7003 (2013) (“heavy industry use” is defined to include uses that are more than 20 acres in area and employ equipment such as smokestacks, tanks, and other devices associated with air and water pollution. § 7002(d)).

⁵⁸ 7 Del.C. § 7004(b) (2013).

⁵⁹ 7 Del.C. § 7011 (2013).

⁶⁰ For an explanation of the evaluation matrix and criteria, please see the Introduction and Methodology Chapters.

FACTORS	Fisheries Management	Natural Areas Preservation System	Delaware Land Protection Act	State Wildlife Areas	State Parks
Consistency over time	★★★ Authorizes year-round/seasonal protection	★★★★★ Mandates year-round protection	★★★★★ Mandates year-round protection	★★★ Authorizes year-round protection	★★★ Authorizes year-round protection
Habitat protection	★★ Habitat protection is byproduct	★★★★ Goal is habitat protection	★★★ Goal is habitat protection	★★★★ Goal is habitat protection	★★★ Goal is habitat protection
Sector	★ Authorizes single-sector	★★★★★ Mandates multi-sector	★★★★★ Mandates multi-sector	★★★ Authorizes multi-sector	★★★ Authorizes multi-sector
Enforcement	★ No MPA-specific enforcement language	★ No MPA-specific enforcement language	★ No MPA-specific enforcement language	★ No MPA-specific enforcement language	★★★ Civil penalty in statutory language
Extent (Scope)	★★★★★ Multi-site, expansion possible	★★★★★ Multi-site, expansion possible	★★★★★ Multi-site, expansion possible	★★★★★ Multi-site, expansion possible	★★★★★ Multi-site, expansion possible
Process for designation or expansion	★★ No MPA-specific public process	★★★★★ Petition for designation of protected area	★★★ Specific public process for designation	★★ No MPA-specific public process	★★ No MPA-specific public process

Local Authority for Marine Protection

Summary of Local Authority

Local governments in Delaware may protect the marine environment through comprehensive planning programs and their authority to designate protected areas.⁶¹ Both the power to create county park districts and their power to acquire interests in lands for preserves is broad, but the spatial scope is limited to tidal lands for counties.⁶² However, their authority is substantially limited areas landward of the low tide mark.

	Quality of Life Act	Municipal Conservation Areas	New Castle County Park Districts
Legal requirement	Mandates county governments incorporate conservation elements in comprehensive planning,	Allows municipal governments to promote public welfare when creating comprehensive	New Castle County has the power to designate park districts

⁶¹ 9 Del.C. § 2656 (1988); 9 Del.C. § 4956 (1988); 9 Del.C. § 6951 (1988); 22 Del. C. § 704(1953); 9 Del. C. § 2651 (1988).

⁶² 9 Del. C. § 2561 (1988); 9 Del. C. § 6951 (1988), 9 Del. C. § 4951 (1988).

	implementing plans through ordinances	plans	
Citation	9 Del.C. § 2656 (1988); 9 Del.C. § 4956 (1988); 9 Del.C. § 6951 (1988).	22 Del. C. § 704 (1953)	9 Del. C. § 2651 (1988); 9 Del. C. § 701(b) (1959)
Designation authority	County governments	Municipal governments	New Castle County
Mgmt/enforcement authority	County governments	Municipal governments	Park districts
Jurisdiction & boundaries	Any land within a county's boundary, extending to low tide mark	Any land within a city's boundary, does not extend to tidal land	Any land within New Castle County, extending to low tide mark
Prohibited uses	Incompatible developments as regulated by counties	Incompatible developments as regulated by cities	Private activities as regulated by park districts
Permitted uses	Compatible developments as regulated by counties	Compatible developments as regulated by cities	Private activities as regulated by park districts

In accordance with state law addressing subaqueous lands, including tidelands and submerged lands, the Secretary of DNREC retains jurisdiction of any project involving subaqueous lands.⁶³

Quality of Life Act

The Quality of Life Act (QLA) gives Delaware counties the power to create conservation zones.⁶⁴ The Act requires counties to create comprehensive plans for all developments within the county.⁶⁵ The counties must also identify conservation areas within their respective comprehensive plans.⁶⁶ These areas can include inventoried state resource areas such as wetlands, habitat areas, hydrological areas, and ocean beaches.⁶⁷ Counties have an obligation to pursue the policies set forth in their comprehensive plans.⁶⁸ However, counties do not have an obligation to protect natural areas that are not preserves.⁶⁹

The most recent Kent County Comprehensive Plan lists significant amount of land along the coast as park lands and protected lands.⁷⁰ In addition, Sussex County's Comprehensive Plan contains references to existing county regulations that place restrictions on buildings near tidal waters, tidal wetlands, and primary coastal dunes.⁷¹ Sussex County defines the boundary of tidal land as "the average height of all the high-tide water recorded over a nineteen-year period as defined by the National Oceanic and Atmospheric Administration tidal datum" within its county code.⁷² The county plans do not show any local initiative to regulate non-tidal open water bordering the county's land.⁷³

⁶³ 7 Del. C. § 7203 (2014).

⁶⁴ 9 Del.C. § 2651 *et seq.* (2013); 9 Del.C. § 4951 *et seq.* (2013); 9 Del.C. § 6951 *et seq.* (2013).

⁶⁵ 9 Del.C. § 2656 (2013); 9 Del.C. § 4956 (2013); 9 Del.C. § 6956 (2013).

⁶⁶ 9 Del.C. § 2656(g)(4) (2013); 9 Del.C. § 4956(g)(4) (2013); 9 Del.C. § 6956(g)(4) (2013).

⁶⁷ *Id.*

⁶⁸ 9 Del.C. § 2660(e) (2013); 9 Del.C. § 4960(e) (2013); 9 Del.C. § 6960(e) (2013).

⁶⁹ See Cartanza, 5, *supra* at note 33.

⁷⁰ Kent County, Map 4-2, *supra* at note **Error! Bookmark not defined.**

⁷¹ Urban Research & Development Corporation, 4-8 to 4-9, *supra* at note 25.

⁷² Sussex County, DE Ordinance § 115-193 (2013).

⁷³ See Urban Research & Development Corporation, *supra* at note 25.

According to QLA, counties must revise their comprehensive plans every five years.⁷⁴ Once a county produces a final draft of an update, it must submit the update to the governor and the state cabinet for review.⁷⁵ The governor must then hold a public meeting discussing the merit of the new update before deciding whether to approve the plan.⁷⁶

Municipal Conservation Areas

The municipal counterpart to the planning component of the County Quality of Life Act does not contain conservation-oriented mandates.⁷⁷ Instead, cities must draw their official maps “to conserve and promote the public health, safety, and general welfare.”⁷⁸ For example, the City of New Castle’s Comprehensive Plan contains a section addressing environmental protection.⁷⁹ The plan shows that the city only planned for coastal lands and wetlands but not coastal water.⁸⁰ Like the counties, cities must revise their comprehensive plans every five years.⁸¹ The governor’s cabinet may conduct public hearings on a revised plan if it chooses to do so.⁸²

New Castle County Park Districts

According to Delaware law, New Castle County has authority to establish park districts for the purpose of forming and managing local parks.⁸³ A park district has the power to pass any ordinance relating to the management of the park.⁸⁴ If a park is formed with conservation in mind, the district can presumably pass ordinances to that end. Because county boundaries in Delaware extend to the low water mark, park districts can potentially include tidal lands.⁸⁵

The process of forming a park district is bottom up. First, 100 or more residents within an area may petition the county for the formation of a new park district.⁸⁶ After receiving a petition, the county will then call for a general election to determine whether it will create a new district and who the commissioners of the new district should be.⁸⁷ If a majority of the residents vote in favor of forming a new district, the new district will form.⁸⁸

⁷⁴ 9 Del.C. § 2660(a) (2013); 9 Del.C. § 4960(a) (2013); 9 Del.C. § 6960(a) (2013).

⁷⁵ 9 Del.C. § 2658(a) (2013); 9 Del.C. § 4958(a) (2013); 9 Del.C. § 6958(a) (2013).

⁷⁶ *Id.*

⁷⁷ 22 Del.C. § 702 *et seq.* (2013).

⁷⁸ 22 Del.C. § 704 (2013).

⁷⁹ URS Corporation, City of New Castle Comprehensive Plan 2009 Update, 55-57 (2009) available at http://newcastlecity.delaware.gov/files/2011/06/comprehensive_plan_2009_update.pdf (last visited May 8th, 2013).

⁸⁰ URS Corporation, Map 5: Environmental Features, *supra* at note 79.

⁸¹ 9 Del.C. § 702(e) (2013).

⁸² 29 Del.C. 9103(e) (2013).

⁸³ 9 Del.C. § 701 (2013).

⁸⁴ 9 Del.C. § 770(4) (2013).

⁸⁵ 9 Del.C. § 105 (2013).

⁸⁶ 9 Del.C. § 710 (2013).

⁸⁷ 9 Del.C. § 712 (2013).

⁸⁸ 9 Del.C. § 775 (2013).

Evaluation of Local Authorities

FACTORS	Quality of Life Act	Municipal Conservation Areas	New Castle County Park Districts
Legal Regime	Planning 	Planning 	Planning 
Ocean Jurisdiction	Beach, tidal only 	Beach, tidal only 	Beach, tidal only 
Durability	Multi-year & adaptive 	Multi-year & adaptive 	Indeterminate 
Consistency	Mandate year-round protection 	Authorizes year-round protection 	Authorizes year-round protection 
Habitat	Habitat protection among conservation goals 	Habitat protection incidental to public welfare 	Habitat protection not a specific goal 
Sector	Mandates multi-sector 	Authorizes multi-sector 	Authorizes multi-sector 
Enforcement	No MPA specific enforcement language 	No MPA specific enforcement language 	No MPA specific enforcement language 
Extent (scope)	Multi-site with expansion possible 	If exists, multi-site with expansion possible 	Multi-site with expansion possible 
Process	Specific public process for development & expansion of protected area 	No MPA-specific public process 	Public petition process exists 