

Draft CZA Offsets Rules and Priorities
For RAC Discussion and Consideration

January 22, 2019

1. The offset proposal must more than offset the one-time impacts and the cumulative annual environmental impacts (i.e., summed over time) identified in the application.
2. Note that under 7 Del. C. §7014 all offsets shall directly benefit Delaware.
3. An offset project should match, to the greatest extent possible, the negative impact in medium, location, duration, timing and pollutant (if applicable).
 - a. For example, if adverse impact is the emission of 10 lb of NO_x annually over the useful life of the plant, the most suitable offset is to reduce another source of NO_x on the site by more than the new emission over the useful life of the plant.
 - b. Or, if a new process will emit 90 decibels of noise 12 hours a day over some specified time period, the offset would be to take another nearby unit that ordinarily generated 90 decibels for 14 hours per day off line for a comparable time period.
4. If it is not possible to offset on the same site, then the applicant should identify an offset project in the same medium, somewhere else in the Coastal Zone, but as close as possible to the site.
5. If it is not possible to offset the same pollutant or impact somewhere else in the Coastal Zone, then the applicant should search for another location in Delaware, with preference given to potential projects closer to the Coastal Zone.
6. If the applicant is unable to identify an offset for the same pollutant in the same medium in Delaware, then they should attempt to offset as close as possible to the conversion site for a similar pollutant or environmental impact. “Similar” means a pollutant that has the same type of effect on the environment when it is released (e.g., offset a benzene (VOC) emission that would affect ozone with a different VOC (xylene)).
7. If the applicant is not able to identify an appropriate offset project through the first 6 steps, they should consider:
 - a. the environmental effect and attempt to identify an offset that will counter that negative effect (e.g., if the project could negatively affect waterfowl habitat that can’t be restored or protected, make a donation to a bird rescue and rehabilitation organization); or
 - b. an offset for the same pollutant in a different medium (e.g., if the environmental impact is a NO_x emission to the air, then a potential offset project may be to reduce nutrients from stormwater in the watershed that is home to the project).
8. If the applicant is not able to identify an appropriate offset project through the first 7 steps, applicant may propose an alternative environment improvement project of great value to Delaware’s coastal resources, as close to the site as possible.
9. Related considerations and recommendations:
 - a. To the extent feasible, the offset process should encourage concurrent permitting or consultation to provide administrative efficiencies and facilitate coordination among the applicant and regulators.

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1. Note that under 7 Del. C. §7014 all offsets shall directly benefit Delaware.
- ~~1.2.~~ The offset proposal must more than offset all environmental impacts ~~the (including but not limited to~~ one-time impacts and ~~the cumulative~~ annual environmental impacts over the duration of the permit (life of the facility?) ~~(i.e., summed over time) identified in the application.~~
- ~~2.1. Note that under 7 Del. C. §7014 all offsets shall directly benefit Delaware.~~
3. An offset project should ~~match, be located as close as possible to the conversion site and,~~ to the greatest extent possible; be consistent with ~~match~~ the negative impact in medium, ~~location,~~ duration, timing and pollutant ~~(if applicable).~~
 - a. For example, if adverse impact is the emission of 10 lb of NO_x annually over the useful life of the plant, the most suitable offset is to reduce another source of NO_x on the site by more than the new emission over the useful life of the plant.
 - b. Or if a new process will emit 90 decibels of noise 12 hours a day over some specified time period, the offset could focus on reducing other sources of noise in the community (e.g., building structures to reduce noise for a nearby highway or facilitating a change in truck routes to reduce truck-related noise in the local community).
4. If the applicant is unable to identify an offset for the same pollutant in the same medium on or close to the site, then they should attempt to offset a similar pollutant or environmental impact. "Similar" means a pollutant that has the same type of effect on the environment when it is released (e.g., offset a benzene (VOC) emission that would affect ozone with a different VOC (xylene)).
- ~~4.5.~~ If it is not possible to offset a particular environmental impact on or near the ~~same~~ site, then the applicant should identify an offset project for the pollutant in the same medium somewhere else in the Coastal Zone, but as close as possible to the site.
- ~~5.6.~~ If it is not possible to offset the same pollutant or impact somewhere else in the Coastal Zone, then the applicant should search for another location in Delaware, with preference given to potential projects closer to the Coastal Zone.
- ~~6.7.~~ ~~If the applicant is unable to identify an offset for the same pollutant in the same medium in Delaware, then they should attempt to offset as close as possible to the conversion site for a similar pollutant or environmental impact. "Similar" means a pollutant that has the same type of effect on the environment when it is released (e.g., offset a benzene (VOC) emission that would affect ozone with a different VOC (xylene)).~~
- ~~7.8.~~ If the applicant is not able to identify an appropriate offset project through the previous steps, they should consider:
 - a. the environmental effect and attempt to identify an offset as close to the site as possible that will counter that negative effect (e.g., if the project could negatively affect waterfowl habitat that can't be restored or protected, make a donation to a bird rescue and rehabilitation organization); or

- b. an offset for the same pollutant in a different medium as close to the site as possible (e.g., if the environmental impact is a NOx emission to the air, then a potential offset project may be to reduce nutrients from stormwater in the watershed that is home to the project).

~~8.9.~~ If the applicant is not able to identify an appropriate offset project through the previous steps, applicant may propose an alternative environment improvement project of great commensurate value to Delaware's coastal resources, as close to the site as possible.

~~9.10.~~ Related considerations and recommendations:

- a. To the extent feasible the offset process should encourage concurrent permitting or consultation to provide administrative efficiencies and facilitate coordination among the applicant and regulators.
- b. With respect to the location of offset projects, the geographic extent of the associated environmental impact should be taken into account (i.e., local impacts should be offset locally, while there may be more flexibility in locating offset projects that address regional impacts).
- c. Minimizing environmental impacts is a priority in the CZCPA process. The offset process is intended to address environmental impacts that can not be avoided or further minimized.
- d. The existence of an offset process does not in any way limit DNREC's authority to reject conversion permit applications with environmental impacts determined to be too severe or for which potential offset projects have insufficient nexus.
- a.e. The Secretary should provide greater clarity on the process and procedures for demonstrating offset consistency with these rules and priorities.