## KEY:

FA instrument is adaptive to the time horizon of the risk event and provides reasonable assurance of funds availability in the timing and amounts necessary assuming the instrument is structured correctly.

FA instrument is not easily adapted to the time horizon of the risk event or may not provide reasonable assurance of funds availability in the timing and amounts suggested by the risk event category.

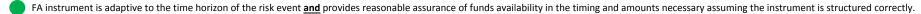
FA instrument is not easily adapted to the time horizon of the risk event and does not provide the regulator with reasonable assurance of funds availability.

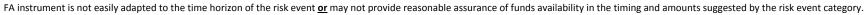
			Types of FA Instruments						
			Third-Party Instruments				e		
Risk Event Category	FA Process	FA Amount	Trust Fund	Letter of Credit	Insurance Policy	Surety Bond	Corporate Financial Test	Corporate Guarantee	Captive Insurance
Actions to address site	CZCPA applications should identify	The need for and amount of conversion							
contamination arising from	actions, and associated FA, to address	permit FA should be determined on an							
active operations	current site contamination. DNREC	application-specific basis. Such							
	conducts application-specific	determination should be based on the							Funds
	evaluations of the sufficiency of	degree to which existing FA at the site							Availability
Term	existing FA, coordinating with other	is sufficient to meeting existing site							, wandonie,
	state and federal personnel familiar	needs. Amount of FA should be							
r	with the site.	incremental to all existing site FA.							
Actions to minimize	A "concept plan" of action(s) must be	Face value should be equal to the							
environmental damage, stabilize	submitted with the conversion permit,	estimated cost of completing the							
and secure the site 'upon	along with a proposal for associated FA.	activities in the DNREC-approved plan,							
termination, abandonment or	Upon DNREC approval of a "final plan",	including DNREC oversight/					Not	Funds	Not
liquidation of site activities'	the permit applicant should be	administration costs. The face value					Adaptive to	Availability	Adaptive to
	required to procure the approved FA	should be downward adjusted to the					Long Time	,	Long Time
Time Horizon: Medium to Long	and evince such FA to DNREC prior to	degree existing FA covers activities					Horizons		Horizons
Term	site operation.	identified in the DNREC-approved plan.							
Actions to address future	Any approved permit should include	Face value should be equal to the							
_	language stating that FA will be	estimated cost of specified actions to							
environmental contamination	required to address site-specific actions								
•	to address environmental	including DNREC oversight/					Short Term	Short Term	Short Term
Time Horizon: Short, Medium, or	contamination incidents if/when they	administration costs. The face value					3.1012 72.111	Short reim	Short reini
Long Term	occur. DNREC should be mindful that	should be downward adjusted to the							
	other existing state/federal	degree existing FA covers such actions.							
	requirements may affirmatively require						Medium to	Medium to	Medium to
	FA for such actions pursuant to other						Long Term	Long Term	Long Term
·	regulatory authorities.						3	J	J
Maintenance or repair of site or	CZCPA applications should identify any	Face value should be equal to the							
infrastructure improvements to	site or infrastructure improvements	estimated cost to maintain and/or							
address sea level rise or coastal	that will be undertaken to address sea	repair relevant infrastructure and site							
storms	level rise or coastal storms. DNREC	improvements, including DNREC					Short Term	Short Term	Short Term
	conducts application-specific	oversight/ administration costs. The						5/10/2 /2/11/	3.10.12 121111
Time Horizon: Short to Long	evaluation of the extent to which FA is	face value should be downward							
Term	needed to ensure sufficient funds to	adjusted to the degree existing FA							
	address associated maintenance	covers such actions.					Medium to	Medium to	Medium to
	and/or potential future repair.						Long Term	Long Term	Long Term
				1	1				

			Types of FA Instruments							
			Third-Party Instruments			Self-Insurance				
							Corporate			
			Trust	Letter of	Insurance	Surety	Financial	Corporate	Captive	
Risk Event Category	FA Process	FA Amount	Fund	Credit	Policy	Bond	Test	Guarantee	Insurance	
Actions to address existing site	CZCPA applications should identify	The need for and amount of conversion								
	actions, and associated FA, to address	permit FA should be determined on an								
active operations	current site contamination. DNREC	application-specific basis. Such								
	conducts application-specific	determination should be based on the							Funds	
Time Horizon: Short to Medium	evaluations of the sufficiency of	degree to which existing FA at the site							Availability	
Term	existing FA, coordinating with other	is sufficient to meeting existing site							,	
	state and federal personnel familiar	needs. Amount of FA should be								
	with the site.	incremental to all existing site FA.								
	A "concept plan" of action(s) must be	Face value should be equal to the								
		estimated cost of completing the								
		activities in the DNREC-approved plan,								
		including DNREC oversight/					Not	Funds	Not	
	the permit applicant should be	administration costs. The face value					Adaptive to	Availability	Adaptive to	
	required to procure the approved FA	should be downward adjusted to the					Long Time		Long Time	
	and evince such FA to DNREC prior to	degree existing FA covers activities					Horizons		Horizons	
Term	site operation.	identified in the DNREC-approved plan.								
Actions to address future	Any approved permit should include	The Secretary should consider a two								
incidents resulting in	language stating that FA will be	pronged approach for future possible								
environmental contamination	required to address site-specific actions	but unknown incidents. First, the								
	to address environmental	Secretary should evaluate the potential					Short Term	Short Term	Short Term	
Time Horizon: Short, Medium, or	contamination incidents if/when they	use and availability of insurance or					Short reini	Short Term	Short reini	
Long Term	occur. DNREC should be mindful that	similar mechanisms to ensure						_	_	
	other existing state/federal	availability of some funding in advance								
	requirements may affirmatively require	of the occurrence of a future triggering					Medium to	Medium to	Medium to	
	FA for such actions pursuant to other	event. Second, following an incident,					Long Term	Long Term	Long Term	
	regulatory authorities.	DNREC should ensure that sufficient FA					3	<b>y</b>	J	
		is put in place such that the fFace value								
		should be equal to the estimated cost								
		of specified actions to minimize								
		environmental damage, including								
		DNREC oversight/ administration costs.								
		The face value should be downward								
		adjusted to the degree existing FA								
		covers such actions.		1						

Maintenance or repair of site or	CZCPA applications should identify any	Face value should be equal to the					
infrastructure improvements to	site or infrastructure improvements	estimated cost to maintain and/or					
address sea level rise or coastal	that will be undertaken to address sea	repair relevant infrastructure and site					
storms	level rise or coastal storms. DNREC	improvements, including DNREC			Short Term	Short Term	Short Term
	conducts application-specific	oversight/ administration costs. The			Short reini	Short reini	Short renni
Time Horizon: Short to Long	evaluation of the extent to which FA is	face value should be downward				_	_
Term	needed to ensure sufficient funds to	adjusted to the degree existing FA					
	address associated maintenance	covers such actions.			Medium to	Medium to	Medium to
	and/or potential future repair.				Long Term		Long Term
					20119 101111	2011g 7 01111	20119 101111

## KEY:





FA instrument is not easily adapted to the time horizon of the risk event and does not provide the regulator with reasonable assurance of funds availability.

## **FURTHER RAC POINTS AND RECOMMENDATIONS**

- FA instruments and assurances should be reviewed at appropriate periodic intervals through some process since financial conditions can change on once the CZPA permit is in place for the life of that permit.
- Self-insurance instruments are not permitted for actions to minimize environmental damage, stabilize and secure the site upon termination, abandonment or liquidation of site activities.
- Alternatively, the RAC supports providing the range of types of FA instruments described above from trust funds to captive insurance but notes the following regarding self-insurance options.
  - Sel-insurance instruments will need to be reviewed at appropriate periodic intervals, will likely require expertise beyond DNREC's current staffing and expertise, and self-insurance may provide less long-term certainty. Thus, the RAC encourages the Secretary to ensure she/he has the authority in the periodic review of such FA instruments to require those who self-ensure to be required, if necessary, to carry a blended approach of third-party and self-insurance instruments and/or to move to only third-party instruments as circumstances merit.
- The Secretary should define more clearly "environmental damage" as outlined in the statute. Does such damage include natural resources damages, public health damages, and/or economic loss associated with natural resources related activities such as fishing, swimming, boating, beach going, etc.?
- The Secretary should ensure that for any applicant utilizing self-insurance, DNREC is able to cover the additional administrative costs of reviewing and considering such financial instruments above and beyond the typical application fee.
- Financial assurances, in general, must be commensurate with the use and its associated risks proposed by the Applicant.

## ITEMS FOR FUTURE RAC DISCUSSION

Details of what goes into a "concept plan"