



































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.

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

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

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

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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.](#)
 - [Self-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-insure 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”](#)