

**COASTAL ZONE CONVERSION PERMIT ACT REGULATORY
RISK EVALUATION AND FINANCIAL ASSURANCE WORK GROUP MEETING #5
OCTOBER 30, 2018**

APPROVED BY THE RISK EVALUATION AND FINANCIAL ASSURANCE WORK GROUP ON DECEMBER 5, 2018

MEETING IN BRIEF

The meeting covered: 1) review and discussion of revisions to existing Risk Evaluation and Financial Assurance (FA) issue papers; and 2) next steps. Meeting comments are captured in part in revisions to the short briefing papers prepared by IEc and DNREC. Presentations and background information can be found at the DNREC Work Groups webpage at: de.gov/czcpaworkgroups.

SUMMARY OF KEY POINTS

Discussion focused on potential further revisions to existing strawmen previously developed by the Work Group. Revisions suggested and made by the Work Group include:

- Issue #1 Strawman (Standard Financial Assurance Instruments) was updated to include references to which instruments are allowed under relevant, existing Delaware environmental regulations. Other changes include: 1) a row being added for captive insurance and 2) two bullet points being added under the “Additional Information” section, noting that a) Delaware Department of Justice attorneys advised the Work Group that the CZCPA does not support setting up a public-private partnership and b) established FA templates are available, although not always for every regulation identified.
- Issue #4 Strawman (Options for Development of a Concept Plan for Minimization of Environmental Damage and Securing/Stabilizing the Site) was substantially reworked based on the meeting discussion to incorporate three options and associated pros and cons.
- No changes to Issue #2 Strawman (Options for Identifying Existing Financial Assurance at a Site) or Issue #6 Strawman (Ensuring DNREC Has Access to FA Expertise and/or Third-Party Verification).
- The Work Group discussed revisions to the Issue #3 Strawman (Potential Approaches to Categories of Actions/Incidents for Which Conversion Permits Should be Considered) made after the previous Work Group meeting. Based on meeting discussion further changes include:
 - Deletion of the row relating to enhanced emergency response (and instead including some of that info in the “Additional Information” section)
 - The phrase “if specified triggering events occur” was added under the “Description” column for “actions to address existing site contamination”
 - The option “consider other state or local regulatory approaches (e.g., integrating related needs into zoning processes)” was added under the “Description” column for “site improvements to address sea level rise and coastal storms”
 - The following bullet point was added under the “Additional Information” section: “FA regulations will need to address triggering events (e.g., owner/operator financial distress, non-performance, etc.) and administrative procedures for accessing allowable FA instruments”.

Next steps include IEc, the technical consultant, finalizing revisions to strawmen based on meeting discussions and developing a presentation to update the RAC on Risk Evaluation and Financial Assurance issues at its November 7, 2018 meeting. Decisions with respect to additional Risk Evaluation and Financial Assurance Work Group meetings will be made after the November 7 RAC meeting.

APPENDIX A: PARTICIPANT LIST

Work Group member attendance

| Name | Affiliation |
|---------------------|---|
| Dave Carpenter | New Castle County Emergency Management |
| Michael Gould | Department of Insurance |
| Carol Houck | City of Delaware City |
| Renee Hupp | Delaware Emergency Management Agency, State Emergency Response Team |
| Richard “Dick” Kirk | Retired attorney (private practice) |
| Leslie Ledogar | Department of Insurance |
| Erich Schuller | DNREC Division of Waste and Hazardous Substances – Emergency Response Team |
| Bob Whetzel | Richards, Layton & Finger / CZCPA RAC Member |
| Jill Williams-Hall | DNREC Division of Waste and Hazardous Substances – Site Investigation and Restoration Section |

Others in attendance

| Name | Affiliation |
|------------------|--|
| Mike Donlan | Industrial Economics (staff) |
| Bill Dunn | Civic League for New Castle County |
| Chiara Trabucchi | Industrial Economics (staff, by phone) |
| Ian Yue | DNREC Division of Climate, Coastal, & Energy (staff) |