

Policy for the Management of Financial Assurances for Industrial Waste Works

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Background

- June 2015 – Environmental Legislation introduced
 - *The Environmental Management and Protection Act, 2010* (EMPA 2010)
 - *The Environmental Management and Protection (General) Regulations* (EMP General Regulations)
- Part of Ministry's movement towards implementation of a Results-Based Regulatory Framework.

Regulation of Industrial Waste Works Permits

- Section 2(s) of EMPA 2010 defines an Industrial Waste Works (IWW) facility as:
 - any facility/operation collecting, containing, storing, transmitting, treating, or disposing of industrial waste
- Section 9(1) of EMP General Regulations
 - Require Industrial Waste Works (IWW) facilities to acquire permits and submit a Financial Assurance (FA) for decommissioning and reclamation (D&R) costs
- FAs will safeguard taxpayer funds from risk of insolvency

Who will be impacted?

Section 8(2) of the EMP Regulations identifies Regulated IWW Facilities:

- Mining or milling operations;
- Petroleum upgraders and refineries;
- Coal-fired power generating plants;
- Ethanol or biodiesel processing plants;
- Canola and oilseeds crushing facilities;
- wood treatment facilities;
- wood product manufacturing facilities; and
- Facilities that treat, store, transport or dispose of specific thresholds of industrial, hazardous or solid waste.

When Does the Provision Take Effect?

- IWW facilities permitted on or after June 2015 must submit a FA to the ministry.
- IWW facilities that have been regulated under EMPA 2002 have until January 1, 2020 to prepare and submit a FA to the Ministry.
- Ministry is exploring risk-based FA requirements for introduction prior to January 1, 2020.

Considerations of FA Requirements

- Flexibility is critical...need to recognize :
 - Capacity (experience, assets), size and performance
- Results-based: Adequate funds must be available for D&R
- Balancing protection of public funds from insolvency **WITH** economic competitiveness
- Risk-informed decision-making

Proposed Solutions for FA Requirements

Two Solutions for compliance with FA requirements

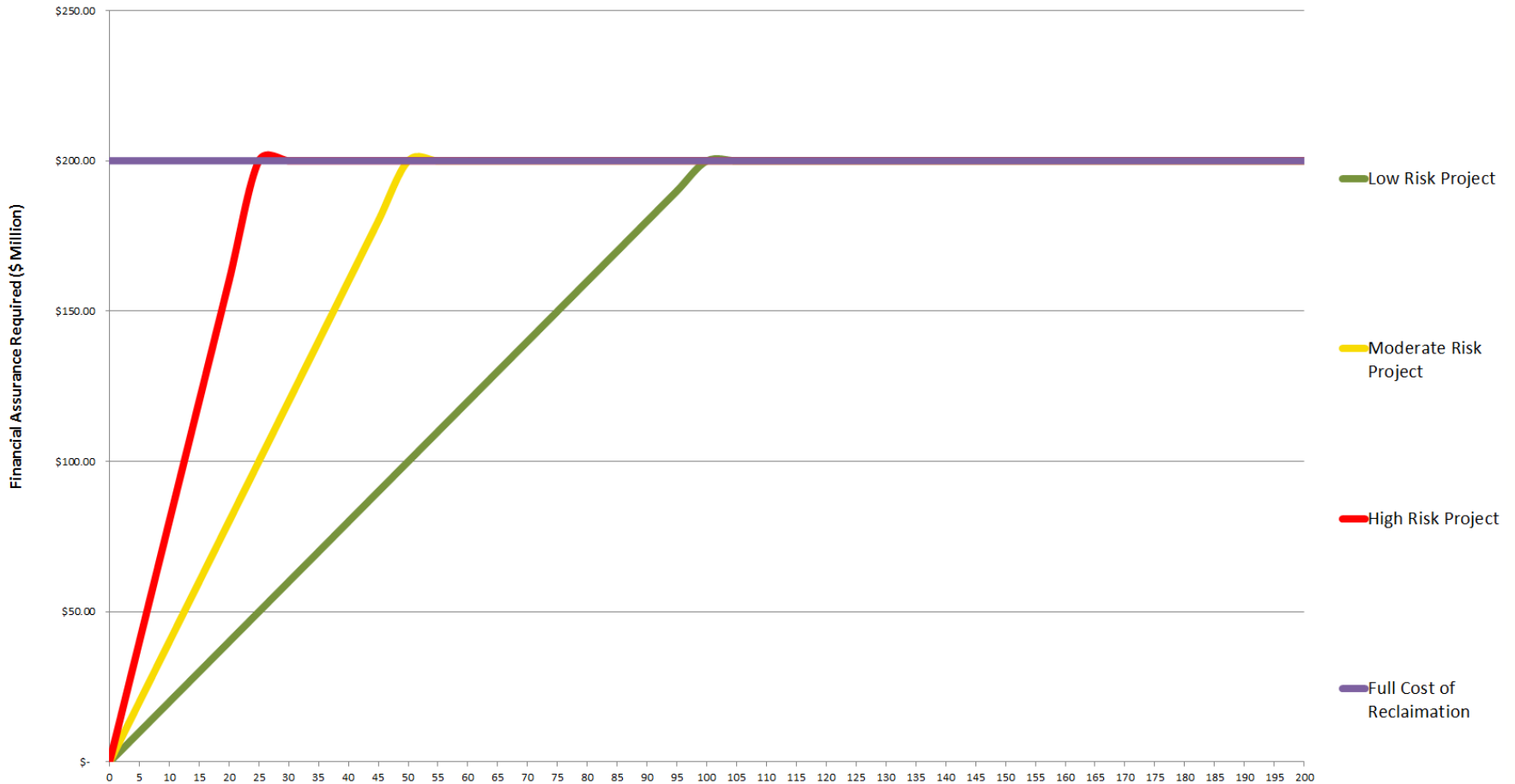
- 1. *Acceptable Solution*** - Default solution that proponent must provide FA upfront to cover full cost of D&R.
- 2. *Alternative Solution*** – Risk-based solution proposed by proponent to ensure full payment of FA over time to cover full cost of D&R.

Alternative Solution

- Lower Risk of insolvency in short term
- Proponents assess risk factors (including likelihood):
 - Environmental;
 - Social;
 - Economic; and
 - Human health and safety.
- Risk Assessment determines the timing for full FA
- Prepared by Qualified Person and Approved by Ministry

Acceptable Vs. Alternative Solutions

Timing of Financial Assurance Requirements for Hypothetical IWW operations



Anticipated Benefits for Alternative Solution

- Full cost of D&R activities are accounted for in FAs provided.
- Acknowledges/Incentivizes efforts to reduce social, economic and environmental risks.
- Reduces the financial burden over time for those proponents that do not pose a likely risk of default.
- Balances safeguarding public funds and economic competitiveness

Next Steps

Engage industry stakeholders to obtain input into the policy direction for FA requirements:

- Are these risk factors appropriate for assessing a project's risk? What other risk factors do you suggest should be incorporated?
- Does this policy balance safeguarding public funds and economic competitiveness? Why or why not?
- Would a QP be able to assess risk of project and estimate a FA accordingly?

Thank you

For more information regarding FA requirements for IWW Facilities and providing input into policy formulation, please contact:

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