

# CLASS VI FINANCIAL ASSURANCE - SURETY & INSURANCE

To possess and operate Carbon Dioxide Capture & Sequestration (CCS) facilities in the United States requires compliance with many regulations one such regulatory obligations is filing the necessary financial assurance required for each project. Formally identified as Class VI wells and falling under the Safe Drinking Water Act and Underground Injection Control (UIC) Program, CCS operations are government by the EPA in all states except Wyoming and North Dakota. The financial assurance requirement is crucial to Class VI operators as they must conduct post-injection site care for a default period of 50 years. This default period will remain in place unless the CCS operator can demonstrate that the plume and pressure front no longer pose a risk of endangerment to drinking water and an alternative timeframe has been approved by the UIC Program Director. The EPA consists of 10 regions, most of which have a designated class VI well director. We have compiled a list of those contacts herein.

## FINANCIAL ASSURANCE

Like most cases in the United States, financial assurance at its core is a form of taxpayer protection. The EPA and the other state agencies do not want to burden the American taxpayer with defunct company liabilities. Owners or operators of Class VI wells must demonstrate and maintain financial responsibility that consists of various financial estimates associated with for the following Four Categories:

- Corrective Action on Wells in the Area of Review (AoR)
- Injection Well Plugging
- Post-Injection Site Care and Site Closure
- Emergency and Remedial Response

Financial responsibility requirements are designed to ensure that owners or operators have the resources to carry out activities related to closing and remediating CCS sites if needed during injection or after wells are plugged, so that they do not endanger Underground Sources of Drinking Water (USDWs). The requirements will also help ensure that the costs of abandoned CCS projects are not borne by the general public.

These financial assurance estimates must be determined by a third party engineering firm and then confirmed and approved by the governing Class VI body. In most instances, the Emergency and Remedial Response portion is the largest line item. It is important to note that the ultimate financial assurance is not needed at the submission of the permit. **At the submission of a permit, a general commitment can be given with the final policies to commence upon approval.** The approval process can take 6-24 months and the ultimate financial assurance only needs to be in place at this future juncture.

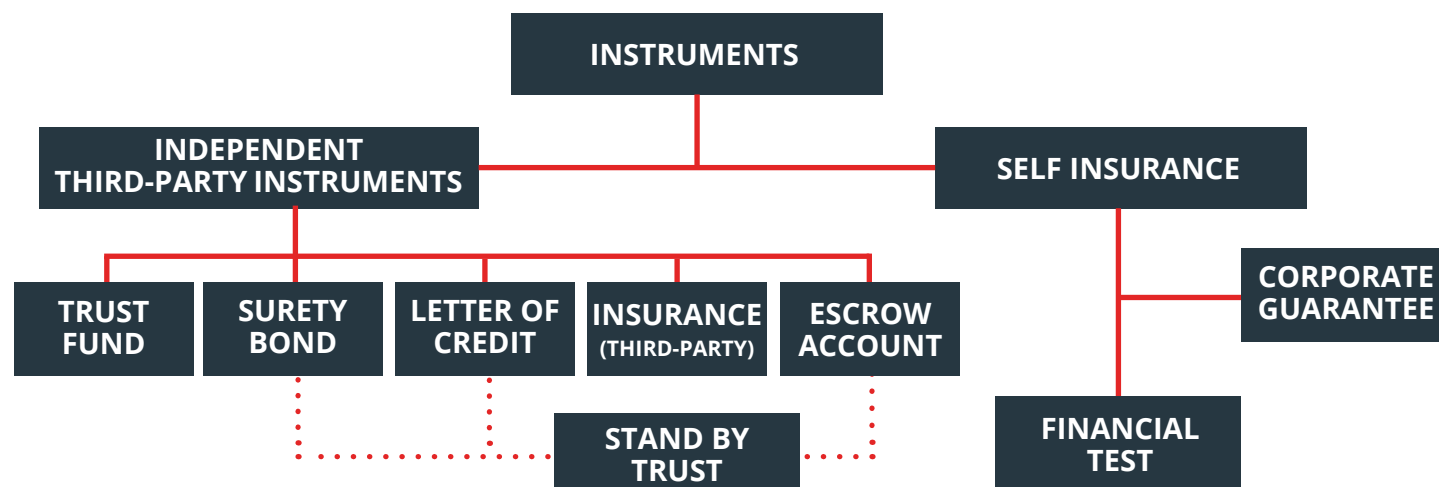
## TWO POLICY APPROACH

It is important to note that the four categories that make up the sum of the financial responsibility requirement can be covered with different instruments. It is the recommendation of CAC Specialty and the implied preference of the EPA that financial assurance responsibility occur in this manner. Corrective Action and Injection Well Plugging is best suited for a surety bond as that market routinely issues bonds for indefinite terms on long life plugging obligations and has a tenured history in this field of underwriting from the oil & gas space. Post Injection Site Care and Remedial Response is more suited for insurance policies as these are typical items covered in one's energy package. The market for this sort of emergency response exists within the insurance world.



## TYPES OF FINANCIAL ASSURANCE

The EPA set forth six instrument options for operators to obtain the necessary financial assurance. The EPA acts as the UIC Program Director. Standby trust funds must be established when an owner or operator establishes a surety bond, letter of credit, or escrow account as part of a financial responsibility demonstration. A standby trust is different from a trust fund because the trust is unfunded (or in standby) until another financial instrument pays into it.



### TRUST FUND

The owner or operator is required to deposit the necessary amount of funds into the trust prior to permitting or may have the option to exercise a “pay-in period” specified by the UIC Program Director. If the trust falls below the cost estimate, the owner or operator will be required to deposit additional funds into the instrument or establish an additional instrument

### SURETY BOND

This option is a guarantee by a surety company and comes in two varieties.

**A Performance Bond** – guarantees the performance of the financial responsibility activities. For example, a performance bond might give the surety three options to guarantee and finance the completion of a project: completing the project itself, hiring a contractor to complete the project, or paying the amount of funds guaranteed by the bond.

**Financial Guarantee Bond** – also commonly referred to as a payment bond, ensures that the surety company will pay the amount of funds guaranteed by the bond.

### LETTER OF CREDIT

Self-explanatory. Often times more expensive than a surety bond and cumbersome to one’s credit facility. Typically includes various issuance fees in addition to the interest charged.

### THIRD PARTY INSURANCE

- Insurance policies appear to be the best solution for the
- With this being a non-cancelable obligation insurance companies may not be willing to underwrite policies for the entire life of a CCS project that must be covered by a demonstration since this period will last for a minimum of 50 years.
- In many cases, insurance companies underwrite policies with maximum terms of five to ten years that then can be renewed.

### ESCROW ACCOUNT

Although escrow accounts have not been used in the federal UIC program, they are functionally equivalent to a trust fund, and may be more accessible and have a lower overhead cost; however, they tend to yield lower interest as highly liquid instruments. Equivalent to a full cash deposit

### CORPORATE GUARANTEE

Involves several levels of financial test and is typically reserved for investment grade credit ratings.

# CAC SPECIALTY SURETY PRACTICE & EXPERTISE

As discussed, one of the most viable options for financial assurance is the two prong approach of a surety bond and the pollution/environmental insurance policy.

## SURETY

CAC Specialty has a core practice in oil and gas plugging and abandonment bonds. The underwriters we work with have a tenured experience in long life, decommissioning related financial assurance requirements. This expertise lends itself to be a natural fit to the carbon sequestration industry and those requirements that come with Class VI wells. These underwriters understand injections wells, field operations, and reservoir reports. This combination couples nicely with the needs of CCS operators.

Surety is typically placed on an unsecured basis and pays a premium annually which is a percentage of the face value of the bond. Similar to letters of credit, surety bonds are off-balance sheet obligations according to US GAAP accounting. They offer a solution to the required financial assurance without the burden on one’s liquidity or credit facility. In exchange for this surety credit, operators are required to execute indemnity agreements.

## WYOMING AND NORTH DAKOTA

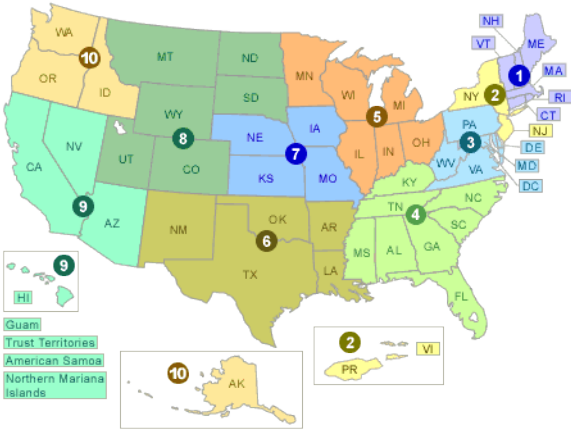
Several states are in the process of applying for primacy. Currently, only Wyoming and North Dakota have primacy over the EPA in establishing Class VI guidelines. Through legislative action, a state may designate a domestic regulatory authority for permitting CCS. In Wyoming, the legislature assigned responsibility for promulgation of rules and regulations governing Class VI wells to the Wyoming Department of Environmental Quality (WDEQ). In North Dakota, the Class VI regulations are governed by the North Dakota Industrial Commission (NDIC). In both instances, the states are required to mirror or exceed the regulations set forth by the EPA.

## INSURANCE

We combine our surety placement practice with the necessary insurance lines to make this risk more palatable for the Operator. For Instance, one of the most significant lines items in a financial assurance request is the Emergency and Remedial Response.

## CLASS VI REGULATORY CONTACTS

REGION	CONTACT NAME	CONTACT INFO
1	Andrea Traviglia	Traviglia.Andrea@epa.gov   617-918-1993
2	Christine Ash	ash.christine@epa.gov   212-637-4006
3	James Bennett	bennett.james@epa.gov   215-814-5469
4	Larry Cole	cole.larry@epa.gov   404-562-9474
5	Andrew Greenhagen	greenhagen.andrew@epa.gov   312-353-7648
6	Ken Johnson	johnson.ken-e@epa.gov   214-665-8473
7	Ben Meissner	r7_uic_program@epa.gov   913-551-7992
8	Wendy Cheung	cheung.wendy@epa.gov   303-312-6242
9	David Albright	albright.david@epa.gov   415-972-397
10	Evan Osborne	osborne.evan@epa.gov   206-553-1747
WYDEQ	Kimber Wichmann	Kimber.wichmann@wyo.gov 307-777-7937
NDIC	Stephen Fried	sjfried@nd.gov 701-328-8020



## ABOUT CAC SPECIALTY

CAC Specialty is a risk solutions company of seasoned and proactive senior industry leaders, operating as a nimble and collaborative partner who puts you and your business first. With a knowledge-driven approach informed by data and decades of honed instinct, CAC Specialty brings an innovative vision to insurance broking and structured solutions to solve your risk challenges – from the simple to the previously unsolvable.

**JOHN HOHLT**  
832.925.4972  
john.hohlt@cacspecialty.com  
Houston, TX

**LISA HARRIS**  
713.516.3983  
lisa.harris@cacspecialty.com  
Houston, TX