

**Memorandum:**

**Subject:** Rewrite of 05B .0103 (e) exceedance of \$1Million Cap

**Prepared by** David Miller, Adam Parr.

**Date:** July 17, 2023

**Rule to be addressed:** 05B .0103 BONDING REQUIREMENTS, subsection (e),

The Committee requested a re-write on the specific section of rule 05B .0103 subsection (e) below:

*if the Director finds that the applicant or permittee, in either case, has a good operating record, that the one million dollars (\$1,000,000) is sufficient to reclaim all sites and that no additional reclamation bond money is needed. If the Director finds that the applicant or permittee does not have a good operating record, that the one million dollars (\$1,000,000) is not sufficient to reclaim all sites, or that additional reclamation money is needed, the Director shall require per acreage bonding for future sites as provided in Paragraph (d) of this Rule.*

**Staff could not find any specifics in N.C.G.S §74-54 where the \$1 million limit on a single bond could be exceeded. The above portion of the rule should be removed.**

**Furthermore, Staff recognizes that all of section (e) of rule 05B .0103 is redundant with N.C.G.S §74-54 and should be removed.**

FOR REFERENCE: 05B .0103 BONDING REQUIREMENTS, subsection (e)

(e) If an applicant or permittee has multiple sites, the applicant or permittee may file a separate bond with the Department for each site or the applicant or permittee may submit one blanket bond covering all sites in the aggregate amount of all bond totals. Once the total amount of all bonds for separate sites or the total of blanket bond for all sites reaches one million dollars (\$1,000,000):

- (1) the applicant or permittee with separate bonds may substitute a one million dollars (\$1,000,000) blanket bond to be used for all future sites, or
- (2) the applicant or permittee with the one million dollars (\$1,000,000) blanket bond covering all sites may use that blanket bond for all future sites,

if the Director finds that the applicant or permittee, in either case, has a good operating record, that the one million dollars (\$1,000,000) is sufficient to reclaim all sites and that no additional reclamation bond money is needed. If the Director finds that the applicant or permittee does not have a good operating record, that the one million dollars (\$1,000,000) is not sufficient to reclaim all sites, or that additional reclamation money is needed, the Director shall require per acreage bonding for future sites as provided in Paragraph (d) of this Rule.