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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

October 29, 2021

Ms. Ronni Moore
Assistant Deputy General Counsel
Department of Environmental Protection
Marjory Stoneman Douglas Building
3900 Commonwealth Blvd., MS 35
Tallahassee, Florida 32399-3000

**RE: Department of Environmental Protection
Proposed Rule Numbers 62-788.101, .151, .201, .301, .311, .321, .331, .341 & .401**

Dear Ms. Moore:

I have reviewed the above-referenced proposed rules, which were advertised in the Florida Administrative Register on October 13, 2021. I have the following comments.

62-788.101(1)
Form 62-788.101(1)

Section V of the form requires the registered technical professional to attest to additional items not found in s. 376.30781(6)(d), F.S. Please provide the Department's statutory authority for these additional attestation requirements. *See* Art. I, § 18, Fla. Const.; s. 120.54(1)(e), F.S.

Section VI of the form requires the certified public account to attest to additional items not found in s. 376.30781(6)(c), F.S. Please provide the Department's statutory authority for these additional attestation requirements. *See* Art. I, § 18, Fla. Const.; s. 120.54(1)(e), F.S.

62-788.151

The rule states that "A Guideline for Agreed-Upon Procedures Attestation Service for the Voluntary Cleanup Tax Credit (VCTC) Program" is provided for informational purposes only and is not mandatory. However, the document contains requirements for CPAs conducting

reviews of the materials required to be submitted with Form 62-788.101(1). Additionally, Section VI of Form 62-788.101(1) refers to the “requirements” of the document. The document appears to contain requirements that are not specifically required by statute or by an existing rule. The document appears to meet the definition of a rule, and therefore, should be incorporated by reference. *See ss. 120.52(16), F.S and 120.55(1)(a)4, F.S.*

62-788.201(1)

The word “section” should be subsection.
See Rule 1-1.008, F.A.C.

The rule adopts the definition of “integral to site rehabilitation” found in s. 376.30781, F.S. However, the definition in s. 376.30781, F.S., refers to rules that have been repealed. It seems the content of the repealed rules has been moved to other rules. It may be helpful for the Department to include the current rule citations in its definition. *See 120.545(1)(i), F.S.*

62-788.301(2)(c)

When using an acronym, please introduce it with full terminology the first time it is used in the text. *See 120.545(1)(i), F.S.*

62-788.301(4)(h)

See comment for 62-788.301(2)(c).

62-788.321(2)

What is the definition of “affordable”? If the Department is referring to the definition in s. 420.0004, F.S., it should include the citation to the statute. *See ss. 120.52(8)(d) and 120.545(1)(i), F.S.*

62-788.321(3)(b)

Use of the semicolon and the word “and” implies there is another item that should follow paragraph (b). Is there additional text missing? If not, the sentence should end with a period. *See ss. 120.545(1)(d) and 120.545(1)(i), F.S.*

Please let me know if you have any questions. Otherwise, I look forward to your response.

Sincerely,



Jamie E. Royal
Senior Attorney