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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

March 13, 2023

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

**RE: Department of Environmental Protection
Proposed Rule Numbers 62-330.010, .050, .350 and .405**

Dear Ms. Prescott:

I have reviewed the above-referenced proposed rules, which were advertised in the Florida Administrative Register on February 24, 2023. I have the following comments.

62-330.010(4)(a)

Applicant's Handbook Volume I

In the second paragraph of Section 8.5.2, the word chapter is misspelled. See s. 120.545(1)(i), F.S.

In the first line of the bulleted list in Section 9.2.2.b., it seems the second phrase "Minimum of 10 rainfall events;" should be a separate bullet. See s. 120.545(1)(i), F.S.

In the second paragraph of Section 12.5(f) there should be a space between the words "initial inspection." See s. 120.545(1)(i), F.S.

62-33.010(4)(b)1.

Department of Environmental
Protection and Northwest Florida Water
Management District Environmental
Resource Permit Applicant's Handbook
– Volume II

Section 2.1(a)8. references Figure 8.1-1 of Volume II, however, Figure 8.1-1 does not exist. *See* s. 120.545(1)(i), F.S.

Section 2.1(a)10. references Section 10.2 of Volume II, however, Section 10.2 does not exist. *See* s. 120.545(1)(i), F.S.

Section 6.3.3 references Section 13.3.1 of Volume II, however, Section 13.3.1 does not exist. *See* s. 120.545(1)(i), F.S.

Appendix C states that borrow pits that fall under the exemption of 62-330.051(17), F.A.C. “may be subject to the mine reclamation requirements under Part II of Chapter 378, F.S. if excavated materials will be used offsite for commercial, industrial, or construction use.” However, 62-330.051(17) states that “If excavated materials will be used off-site for commercial, industrial, or construction use, the borrow pit is subject to the mine reclamation requirements under Part III of Chapter 378, F.S.” Please explain why there is a discrepancy between the rule requirement and the handbook. Also, use of the word “may” indicates that the agency may or may not subject borrow pits to the mine reclamation requirements. This appears to vest unbridled discretion with the agency. *See* s. 120.52(8)(d), F.S.

Appendix C also references Section 13.4 and Section 13.3.2 of Volume II, however those sections do not exist. *See* s.120.545(1)(i), F.S.

The material referenced as Appendix E was not provided to the committee. *See* s. 120.54(3)(a)4., F.S.

62-330.050(9)(b)5.

Florida Stormwater Erosion and
Sedimentation Control Inspector's
Manual Tier II

The hyperlinks provided in Section 6.2.1 and footnote 3 do not work. *See* s.120.545(1)(i), F.S.

Please explain how the requirement in Section 7.1. for the SWPPP to “exceed DEP requirements found in the CGP, Part 4” does not vest unbridled discretion in the agency and fail to establish adequate standards for agency decisions. *See* s. 120.52(8)(d), F.S.

62-330.350(1)(c)

The rule references the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual Tier I and the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual Tier II, however, it does not state in which rule the materials are incorporated. *See* Rule 1-1.013, F.A.C.

62-330.405(11)

The rule references the State of Florida Erosion and Sediment Control Designer and Reviewer Manual, the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual Tier I and the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual Tier II, however, it does not state in which rule the materials are incorporated. *See* Rule 1-1.013, F.A.C.

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

Sincerely,



Jamie E. Royal
Senior Attorney