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De Minimis Discharges – What Are They?

The FDEP has recently codified the cleanup of de minimis discharges in the recently released Contaminated Site Cleanup Rule (Chapter 62-780.550). A “de minimis discharge” is defined as a



discharge that is removed from the soil, sediment, surface water, and groundwater to Cleanup Target Levels or background concentrations within a period of 30 days from the discovery of the discharge. This new rule provides guidelines for the cleanup of minor releases in a time efficient manor with little regulatory oversight. The new rule does not define what constitutes a de minimis discharge with regard to volume or severity, only that de

minimis discharges must meet the following cleanup criteria:

- Cleanup to state Cleanup Target Levels (Chapter 62-777) or background concentrations
- Cleanup achieved within 30 days from the discovery of the discharge
- The responsible party shall maintain records of the actions taken to remedy the discharge for five years and be available to the FDEP upon request

So what types of de minimis cleanups are applicable to this rule? A good example would be stained soils discovered under an aboveground storage tank during a Phase I Environmental Site Assessment. If a source removal with confirmation soil sampling (confirming that all impacts have been removed) can be completed within 30 days of the discovery, then the issue could be closed out under the de minimis rule. This rule is particularly useful in property transactions with limited due diligence periods.