News & Press Releases

Florida DEP's problematic immediate-media-notification pollution rule

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Two Gunster attorneys were in the news recently, commenting on a rule that is currently in the process of being finalized by the Florida Department of Environmental Protection.

On Sept. 26, Governor Rick Scott directed the DEP to propose an emergency rule compelling businesses with knowledge of any pollution to provide notification to the public, via the media, in addition to notifying the regulatory agencies already required by law to be notified.

As Gunster business litigation attorney Tom Julin notes in his opinion piece published in Law360 on Nov. 27, the proposed rule requires business owners/operators to immediately determine the occurrence of an incident, whether it is likely to affect areas beyond property boundaries, and its potential risk to public health, safety or welfare – all of which appears to run afoul of the First Amendment, by compelling a significantly broader message than the disclosures of fact regularly required of business by government agencies.

Meanwhile, in an editorial, The Lakeland Ledger quoted Gunster environmental and government affairs attorney Greg Munson saying that requiring media notification in all instances could lead to overreporting and actually do greater harm by desensitizing the public to instances of true emergencies.

In its editorial, the Ledger indicated media notification may best be performed by the DEP, with its environmental specialists who are able to determine the issue, its significance and how to explain it to the public.

Read related:

- Emergency DEP rule requires immediate media notification of pollution (Gunster.com alerts, 9/28/16)

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- Editorial: Uncorking a bottled-up messaging system (The Lakeland Ledger, 11/22/16)
- Pollution notification rule would violate 1st Amendment (Law360, 11/27/16) – note: subscription required