



U.S. Court of Appeals delays WOTUS rule nationwide

On Oct. 9, the 6th Circuit of the U.S. Court of Appeals issued an order to temporarily delay the “Waters of the U.S.” (WOTUS) rule. The order was in response to challenges brought by Ohio and 17 other states (Alabama, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Utah, West Virginia and Wisconsin). This comes after an Aug. 27 court decision in the U.S. District Court of North Dakota to stay the rule in 13 states. Prior to the Court of Appeals ruling, however, the EPA was still legally allowed to implement the final rule in the remaining 37 states.

The suits filed by the states were among a multitude of lawsuits filed in separate district courts across the country. The state challenges were subsequently consolidated in the 6th Circuit. Two of the three Appeals Court judges held that the states bringing the challenges “have demonstrated a substantial possibility of success on the merits of their claims.” In the coming weeks, the court must determine whether it has jurisdiction over the consolidated case. Until this is decided, the 6th Circuit Court determined that the rule should be temporarily delayed.

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