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On August 16, the South Carolina District Court ruled that President Donald Trump's Executive Order 13778 to suspend the Obama Administration's Clean Water Rule was in violation of the Administrative Procedure Act.

Finalized in 2015, the Clean Water Rule—also called the Waters of the United States or WOTUS rule—clarified the scope of federal water protected under the Clean Water Act, which prohibits the discharge of pollutants from a point source into navigable waters without a permit from the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (USACE). The 2015 WOTUS rule, defining “waters of the United States” as bodies of water that fall under U.S. federal jurisdiction, expanded the previous definition of navigable and associated waters to encompass small streams and wetlands that were perviously not included. Complex legal battles have erupted since 2015 over implementation of the WOTUS rule and resulted in ongoing uncertainty regarding the legality of enforcing the rule across the country.

Following President Trump's executive order, the EPA and USACE finalized a rule in February 2018 delaying the applicability date of the WOTUS rule until 2020. The delay reinstated the previous definition of navigable waters protected by the Clean Water Act, while the agencies undertake a complex rulemaking process to redefine these protected water bodies.

In ruling on *South Carolina Coastal Conservation League, et. al. v. Scott Pruitt, et. al.*, the District Court found that the rulemaking to delay the applicability date was (1) issued without providing for meaningful opportunity for public comment because the government did not solicit or consider any substantive comments on the change of regulatory definition, and (2) “arbitrary and capricious” because the agencies did not provide a reasoned analysis supporting it. The nationwide halt of the applicability date rule effectively reinstates the WOTUS rule in twenty-six states: California, Connecticut, Delaware, Hawaii, Illinois, Iowa, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, and Washington.

Previous rulings by the North Dakota and Georgia District Courts have stopped implementation of the WOTUS rule in the remaining twenty-four U.S. states. The states of Texas, Louisiana, and Mississippi, and several farm industry groups have filed a motion to the District Court for the Southern District of Texas to halt the rule nationwide. In response to the South Carolina Ruling, the Department of Justice (DOJ) filed a request to the South Texas court supporting a nationwide stay saying that the injunction created a regulatory patchwork that does not serve the public interest. DOJ is also expected to appeal the ruling to the 4th U.S. Circuit Court of Appeals.

Sources: E&E News; Environmental Protection Agency; Federal Register; National Law Review.
