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NEW WOTUS RULE BLOCKED IN FLORIDA

By: **Katherine R. English, Esq.**

On June 26, 2023, The Environmental Protection Agency and the U.S. Department of the Army (agencies) announced on EPA's website that they are developing a rule amendment to the final "Revised Definition of 'Waters of the United States'" rule (WOTUS), [published in the *Federal Register*](#) on January 18, 2023. According to the agencies, the purpose of the amendment is to assure that the definition of WOTUS will be consistent with the U.S. Supreme Court's May 25, 2023, decision in the case of *Sackett v. Environmental Protection Agency*.

The WOTUS rule is presently blocked in 27 states with active litigation continuing.

The agencies' announcement follows their communication with the federal district court in North Dakota (that enjoined the existing WOTUS rule in 24 states, including Florida) that they are preparing an amendment to the existing WOTUS definition that will comply with *Sackett*, but that the rule as adopted would not be withdrawn or re-written in its entirety.

Plaintiffs in the federal district court in Texas that issued an injunction on the WOTUS rule effective in Texas and Idaho told the judge that the Supreme Court's decision in the *Sackett* case "directly invalidates major portions of WOTUS rule."

The agencies intend to issue a final rule amending the existing WOTUS rule by September 1, 2023.

A note to the reader: This article is intended to provide general information and is not intended to be a substitute for competent legal advice. Competent legal counsel should be consulted if you have questions regarding compliance with the law.

Katherine R. English is a partner and an experienced agricultural and environmental attorney with Pavese Law Firm, 1833 Hendry Street, Fort Myers, FL 33901; Telephone: (239) 334-2195; Fax: (239) 332-2243. To view past articles, please click “Publications” on our firm website.

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