

Where Water Ends and Land Begins: Course Changes and Clean Water Act

Nowhere is change more certain than when it comes to Clean Water Act (CWA) rulemakings, leaving floundering regulated entities and litigation in their wake. While states like Nevada have gained a modicum of stability by regulating waters of the state (WOTS), the result is a state patchwork of regulations over the quicksand that is waters of the U.S. (WOTUS). Since 2015, there have been no fewer than four WOTUS definitions (and as many as eight, depending on who is doing the counting), not to mention the range of lawsuits that have been filed on every side by parties challenging them. With Congress unable and unwilling to define WOTUS, the rulemakings and subsequent litigation are almost certain to continue, leaving states like Nevada and regulated entities struggling to find stability.

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