

The U.S. Sixth Circuit Court of Appeals on Friday put a hold on the Obama Administration's new rules for water quality, saying opponents, including the State of Ohio, were likely to prevail on the merits.

The court issued a stay on the U.S. Environmental Protection Agency rules in a 2-1 decision welcomed by Attorney General Mike DeWine. Last June he joined attorneys general in several other states in filing lawsuits to block the proposed expansion of what constitutes the "waters of the United States" to include tributaries.

"I am glad that the Sixth Circuit Court has temporarily stopped the effect of this sweeping, illegal rule that claims federal jurisdiction over about every damp area of public or private land in the nation," Mr. DeWine said in a statement.

The appeals court, after mulling dozens of briefs on the issue, questioned the rulemaking process by which the distance limitations were adopted as "facially suspect." While determining that a stay would not result in "immediate irreparable harm" to petitioners, the decision written by appeals court Judge David McKeague stated, "neither is there any indication that the integrity of the nation's waters will suffer imminent injury if the new scheme is not immediately implemented and enforced."

"What is of greater concern to us, in balancing the harms, is the burden - potentially visited nationwide on governmental bodies, state and federal, as well as private parties - and the impact on the public in general, implicated by the Rule's effective redrawing of jurisdictional lines over certain of the nation's waters," the court found.

"A stay allows for a more deliberate determination whether this exercise of Executive power, enabled by Congress and explicated by the Supreme Court, is proper under the dictates of federal law. A stay temporarily silences the whirlwind of confusion that springs from uncertainty about the requirements of the new Rule and whether they

will survive legal testing," Judge McKeague wrote. "A stay honors the policy of cooperative federalism that informs the Clean Water Act and must attend the shared responsibility for safeguarding the nation's waters."

Appeals Judge Damon Keith joined in the majority opinion in the case, which pitted some 30 states against the U.S. Army Corps of Engineers.

Judge Richard Allen Griffin dissented, writing that it was "not prudent for a court to act before it determines that it has subject-matter jurisdiction."

Among the groups who supported the rule change were the Healing Our Waters-Great Lakes Coalition, National Wildlife Federation and the Natural Resources Defense Council, who argued that it would better protect the environment and build more safeguards against pollution and damage to the nation's waterways.

NWF said the new rule would restore Clean Water Act protections to waters that more than 5 million people in Ohio depend on for drinking.

"Today's ruling temporarily delays much needed protections for our nation's streams and wetlands - and the countless species of fish and wildlife and millions of Americans that depend upon them," NWF President and CEO Collin O'Mara said in a statement.

"In its decision, the court recognized that a rulemaking was 'long overdue,' that the rule was based on 'reliable peer-reviewed science,' and that the previous status quo was 'clouded by uncertainty.' We are confident that the strong scientific basis and clear legal authority underpinning the rule will ensure that it is ultimately upheld in the courts."