

Wiley Rein & Fielding Secures Dismissal of Lawsuit against Methyl Bromide Producers for “Critical Use” of Pesticide

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Washington, DC—The U.S. Court of Appeals for the District of Columbia Circuit has denied a petition for review in a case which challenged the Environmental Protection Agency’s (EPA) “critical use” authorizations for methyl bromide production and use in the agriculture industry. Wiley Rein & Fielding’s client, the American Chemistry Council’s Methyl Bromide Industry Panel (MBIP), had intervened in the lawsuit in support of EPA. The members of the MBIP produce and import all methyl bromide in the United States. The court denied the petition on the grounds that certain decisions under an international environmental treaty known as the Montreal Protocol do not carry the force of law in the U.S.

The Natural Resources Defense Council (NRDC) brought the original suit against the EPA, claiming that the critical use exemptions violated both the Montreal Protocol and the Clean Air Act. The U.S. and other parties agreed to phase out methyl bromide under the Montreal Protocol except for specific “critical uses” in agriculture. Methyl bromide is important to control insects, weeds and other pests in agriculture, particularly in the cultivation of crops such as strawberries and tomatoes. The challenged regulations implement the critical use exemptions in the United States.

NRDC’s case was premised on the argument that the exemptions violated certain decisions of the parties to the Montreal Protocol. The ruling by the court rejected NDRC’s argument that such decisions dictate U.S. actions. In an earlier decision, the court had refused to review the case on standing grounds.

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[View the full decision.](#)