

Wiley Rein Preserves Important Victory for American Chemistry Council

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Wiley Rein attorneys in the Chemicals, Safety & Environment Group preserved an important victory in the U.S. Court of Appeals for the District of Columbia on behalf of the American Chemistry Council's Methyl Bromide Industry Panel. The Panel is a consortium of all manufacturers who supply the pesticide methyl bromide to the U.S. market. Methyl bromide is a critical fumigant for growers of agricultural commodities and food processors. The ruling preserves an earlier victory for the Panel that allowed the continued production and imports of the pesticide.

Methyl bromide is subject to an international environmental treaty known as the Montreal Protocol. Under the treaty, production and imports of methyl bromide were phased out on a world-wide basis as of 2005, except for certain "critical uses" for agriculture. In late December 2004, the environmental group Natural Resources Defense Council (NRDC) filed suit challenging new regulations issued by the U.S. Environmental Protection Agency to implement the "critical use" program. The Panel intervened on the side of EPA and challenged whether NRDC had standing to bring the suit. In March 2006, the Court dismissed NRDC's challenge on that basis. NRDC sought rehearing. In August 2006, the Court granted rehearing, but sided with EPA and the Panel on the merits, and NRDC's suit was dismissed for a second time. In November 2006, NRDC sought rehearing on this decision. In its ruling earlier this week, the Court denied NRDC's second rehearing request, thus letting its August 2006 decision on the merits stand.

Tracy Heinzman has principal responsibility for this representation, and was assisted on briefs by Eric Andreas and Maureen Thorsen.

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