

Wiley Rein Obtains Third Court of Appeals Victory for Methyl Bromide Manufacturers

January 22, 2008

On January 22, the U.S. Court of Appeals for the DC Circuit denied a challenge to the United States EPA's 2007 rule governing ongoing usage of the insecticide methyl bromide. (*Natural Resources Defense Council v. EPA*, No. 07-1040.) Wiley Rein represented intervenor American Chemistry Council (ACC) in the case, which was decided on the basis urged in the ACC's brief.

In 2006, the DC Circuit twice rejected similar challenges to the 2004 rule in which EPA adopted the framework employed in the 2007 rule. In the 2006 decisions, the court initially adopted the intervenor's argument that appellants lacked standing, but on reconsideration reached the merits and again adopted the view urged by intervenors.

Wiley Rein Environment & Safety Practice Chair David B. Weinberg, counsel of record for ACC, commented on the ruling, "We believed that the doctrine of claims preclusion barred this suit, and are gratified that the Court of Appeals agreed."

Joining Mr. Weinberg on the brief were partners Tracy Heinzman and Eric Andreas. Associate David Markert also played an important role in preparing the argument.

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