

Obama Administration Drops CAMR Appeal

In the new administration's first outright reversal of Bush-era environmental policies, on February 6, 2009, the United States Department of Justice withdrew its petition for certiorari in *EPA v. New Jersey*. The petition sought Supreme Court review of a 2008 decision by the D.C. Circuit that invalidated EPA's May 18, 2005 Clean Air Mercury Rule ("CAMR").

CAMR and its related rulemakings sought to address mercury emissions from coal- and oil-fired power plants under a market-based "cap-and-trade" program rather than imposing a maximum achievable control technology ("MACT") for mercury. The Bush administration promoted CAMR as a much more cost-effective and rational approach, but the policy was heavily criticized by environmental advocacy groups.

The withdrawal was expected, particularly since the new EPA Administrator, Lisa Jackson, is the former Commissioner of the New Jersey Department of Environmental Protection, the lead petitioner in the court challenge to CAMR. Nonetheless, the action is significant since it appears to signal the end of CAMR and that EPA will go forward with proposing a MACT standard for mercury.

If you would like more information regarding this significant development, please feel free to contact your please contact Kevin R. Murray (kmurray@chapman.com), Thomas L. Van Wyngarden (vanwyngarden@chapman.com), James C. Burr (burr@chapman.com) or Patrick S. Malone (pmalone@chapman.com) at Chapman and Cutler LLP.

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