



For Immediate Release

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**WLF URGES COURT TO UPHOLD
EPA RULING ON MERCURY EMISSIONS**
(New Jersey v. EPA)

The Washington Legal Foundation (WLF) filed its brief in the U.S. Court of Appeals for the District of Columbia Circuit last week, urging the Court to reject a legal challenge by New Jersey and other states to the Environmental Protection Agency's (EPA) decision not to regulate mercury emissions from power plants under Section 112 of the Clean Air Act (CAA). WLF agreed with the EPA that mercury emissions from utilities do not pose a hazard to public health, and that in any event, any risks to health are adequately addressed by other CAA programs. If anything, EPA's reference-dose for the safe level of mercury is highly conservative and overly protective of human health.

This case is important not only to utilities, but also to other companies regulated by government agencies charged with protecting the public's health, including the EPA and the Food and Drug Administration (FDA), to ensure that sound science, rather than junk science, controls regulatory decisionmaking. News reports that mercury levels found in fish are at dangerous levels have prompted calls to cut mercury emissions by utilities. But as WLF pointed out in its brief, utility mercury emissions have been substantially reduced by 40 percent over the last 10 years, and that mercury emissions from utilities are not harmful.

In order to affect human health, mercury, which is found in nature and generated by burning vegetation and fuel combustion, must undergo a complex change into methylmercury, a compound which turns up in low levels in fish. Eating moderate amounts of low-mercury fish from restaurants and grocery stores is not considered harmful to human health. Thus, even if EPA were to order reductions in mercury emissions from utilities by 50 percent, the affect on methylmercury levels in fish would be negligible. Moreover, U.S. utilities account for only one percent of total global emissions, with China generating approximately 500 tons of mercury per year compared to 40 tons by all U.S. utilities. Indeed, most mercury deposits in the U.S. come from globally distant sources such as Asia. Oral argument in the case is expected in the fall.

WLF's brief was filed with the *pro bono* assistance of Peter Glaser, partner in the Washington, D.C. office of Troutman Sanders LLP, and associate Christine J. Sommer.

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For further information, contact WLF Senior Executive Counsel Paul Kamenar at 202-588-0302. A copy of WLF's brief is available on its website at www.wlf.org.