

**For Immediate Release**

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## **EPA REVOKES REGULATIONS TWO YEARS AFTER COURT STRIKES THEM DOWN**

The Environmental Protection Agency (EPA) finally revoked a pair of regulations last week that had been struck down by the courts almost two years ago. This action came as a victory for the Washington Legal Foundation (WLF) which had petitioned the EPA last fall, demanding that the EPA formally revoke the invalid regulations that the agency had improperly kept on the books. The Office of Management and Budget (OMB), acting upon a related WLF petition, ordered all regulatory agencies to review all of their regulations, and to revoke those that have been declared invalid by the courts.

The EPA regulations in question were originally issued by the EPA in 1998 under the Resource Conservation and Recovery Act (RCRA) as part of EPA's Phase IV Land Disposal Restrictions (LDR) Rule. The LDR rule included language that classified mineral processing sludges and by-products being reclaimed as solid wastes under RCRA's hazardous waste management regulations. The rule also used the Toxicity Characteristic Leaching Procedure (TCLP) for determining whether manufactured gas plant waste is hazardous under RCRA.

In April 2000, the U.S. Court of Appeals for the District of Columbia Circuit in *Association of Battery Recyclers (ABR) v. EPA*, 208 F.3d 1047 (D.C. Cir. 2000), struck down those two provisions ruling that the EPA had no jurisdiction over certain substances and had insufficient evidence to promulgate the TCLP provision. WLF's petition was filed in response to a publication issued by WLF's Legal Studies Division and authored by Richard G. Stoll, an attorney who specializes in environmental matters. In *EPA Ignores Court Mandates To Revoke Unlawfully Issued Rules* (WLF Legal Opinion Letter, June 15, 2001), Mr. Stoll discussed the *ABR* case and the undue delay by the EPA to revoke the invalid regulations.

"There is simply no excuse for EPA to keep invalid regulations on the books and to mislead the regulated community that its regulations are still intact," said Paul D. Kamemar, WLF's Senior Executive Counsel. "Excessive regulation of the free enterprise system is bad enough without keeping invalid regulations on the books," Kamemar added.

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