

FOR IMMEDIATE RELEASE

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Joined by Former EPA Administrator, WLF Urges Supreme Court to Review One-Way Ratchet on Air Standards (*Kentucky v. EPA/U.S. Chamber v EPA*)

“The D.C. Circuit created a one-way revision power that Congress never enacted, and only the Supreme Court can undo it.”

— Cory Andrews, WLF General Counsel & Vice President of Litigation

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to grant review of twin petitions challenging the 2024 fine-particle air standard. WLF’s amicus brief, joined by former Environmental Protection Agency Administrator Andrew Wheeler, contends that the D.C. Circuit effectively converted a two-way statute into a one-way ratchet that only tightens national air standards.

The case arises from EPA’s 2024 off-cycle tightening of the annual particulate matter standard from 12.0 to 9.0 micrograms per cubic meter. That national limit is the permitting baseline for virtually every major factory, power plant, and industrial project in America. After a 2020 thorough review that kept the prior standard, the Biden-era EPA reopened the rule on a partial record, and the D.C. Circuit upheld the shortcut. A coalition of States and a coalition of business groups filed separate petitions for certiorari.

In its amicus brief supporting both petitions, WLF argues that the panel stripped the thorough-review requirement and stretched *Whitman v. Am. Trucking Ass’ns* into a ban on considering costs at the threshold. That reading hands EPA a perpetually available, one-way revision power that Congress never enacted. WLF and former Administrator Wheeler urge the Supreme Court to grant the petitions and restore the two-way statute that Congress wrote.

Celebrating its 49th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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