

ORAL ARGUMENT NOT YET SCHEDULED

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

COMMONWEALTH OF)	
MASSACHUSETTS <i>et al.</i> ,)	
)	
<i>Petitioners,</i>)	
)	
v.)	No. 26-1061
)	(consolidated with
UNITED STATES)	No. 26-1037)
ENVIRONMENTAL PROTECTION)	
AGENCY and LEE ZELDIN,)	
Administrator, U.S. Environmental)	
Protection Agency,)	
)	
<i>Respondents.</i>)	

**PETITIONERS’ PRELIMINARY STATEMENT OF
ISSUES TO BE RAISED**

Pursuant to this Court’s order of March 20, 2026, Petitioners in Case No. 26-1061 submit the following non-binding statement of issues to be raised in this proceeding concerning the U.S. Environmental Protection Agency’s (“EPA”) final rule entitled “Rescission of the Greenhouse Gas Endangerment Finding and Motor Vehicle Greenhouse Gas Emission Standards Under the Clean Air Act,” and published in the Federal Register at 91 Fed. Reg. 7686 (Feb. 18, 2026) (the “Rescission”).

1. Whether the Rescission is arbitrary, capricious, and/or contrary to law because it is foreclosed by binding Supreme Court and D.C. Circuit precedent.

2. Whether the Rescission is arbitrary, capricious, and/or contrary to law because it is based on interpretations of Section 202(a)(1) of the Clean Air Act, 42 U.S.C. § 7521(a)(1), that are inconsistent with the best reading of the statute and that are dependent upon arbitrary conclusions and assumptions.

3. Whether the Rescission is arbitrary, capricious, and/or contrary to law because it erroneously invokes the major questions doctrine to disclaim EPA's settled authority to regulate greenhouse gas emissions from motor vehicles under Section 202(a)(1) of the Clean Air Act, and because the Clean Air Act plainly authorizes EPA to regulate such emissions in any event.

4. Whether the Rescission is arbitrary, capricious, and/or contrary to law because EPA lacks authority to retroactively rescind an endangerment finding and repeal the entire federal greenhouse gas emission standards program for motor vehicles under Section 202(a)(1) of the Clean Air Act without determining that greenhouse gases do not contribute to climate change.

5. Whether the Rescission is arbitrary, capricious, and/or contrary to law because the Clean Air Act does not permit EPA to decline to make an endangerment finding or regulate pollutants on grounds of "futility."

6. Whether the Rescission is arbitrary, capricious, and/or contrary to law because it rests on the erroneous conclusions that federal regulation of greenhouse gas emissions from motor vehicles has “de minimis” impacts on public health or welfare and is unreasonable, where those conclusions are unsupported and contrary to the record and where EPA has failed to consider important aspects of the problem.

7. Whether the Rescission is arbitrary, capricious, and/or contrary to law because it fails to provide a reasoned explanation for EPA’s decision, fails to explain its departure from longstanding agency findings, policy, and practice, and fails to consider adequately serious reliance interests.

8. Whether the Rescission is arbitrary, capricious, and/or contrary to law because it is pretextual and/or the product of unlawful prejudice.

9. Whether the Rescission is contrary to law under Section 307 of the Clean Air Act, 42 U.S.C. § 7607, and principles of administrative law because EPA failed to follow, *inter alia*, public notice and comment and disclosure requirements and failed to respond adequately to material public comments and pertinent findings of the National Academy of Sciences.

10. Whether the Rescission is arbitrary, capricious, and/or contrary to law because its conclusions are unsupported, contradict the record and EPA’s past,

undisturbed findings, and fail to take proper account of the views of the National Academy of Sciences.

Dated: April 16, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of April, 2026, I electronically filed the foregoing Non-Binding Statement of Issues via the Court's CM/ECF system, which will provide copies to all counsel registered to use the CM/ECF system. John Worthington will be served by email as requested.

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