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REGULATORY INTELLIGENCE BRIEF · ONE PAGE

# The endangerment finding rescission, what the public said and what EPA answered

Docket EPA-HQ-OAR-2025-0194 Final rule 91 FR 7686, Feb. 18, 2026 Version 1.2, Oct. 23, 2026

## BOTTOM LINE

**EPA rests the rescission on three grounds it calls severable, a reading of Clean Air Act section 202(a)(1), the major questions doctrine and a finding that vehicle standards cannot materially affect the danger. It does not answer the climate science and health comments on their merits.**

The rule survives if the D.C. Circuit upholds any one ground. The science record reaches the futility ground, which rests on climate models EPA assumed valid. Whether setting the science and health comments aside met the duty to respond is for the court to decide.

## THE RECORD IN SIX NUMBERS

**571,676**
comments received, 534,160 of them signatures in 169 mass campaigns

**98.7%**
of campaign signatures oppose the rescission; EPA lists the sponsor as unknown for 112 campaigns

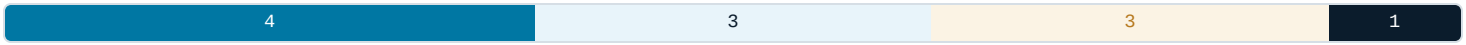
**74%**
of a random sample of 120 typed comments oppose it, plus or minus 8 points

**62%**
of sampled comments raise climate change or climate science

**24 lines**
of the 14,249 line Response to Comments address climate science, 0.2%

**64.6%**
of the Response to Comments goes to the legal grounds, futility included

## HOW EPA ANSWERED 11 KEY ARGUMENTS




- **On the merits.** Whether greenhouse gases fall within section 202(a), what *Massachusetts v. EPA* decided, futility, use of AI.
- **Out of scope.** Climate science and the Energy Department report, public health, federal preemption.
- **By a legal ground.** Backstop standards, reliance by automakers and states, tribal treaty rights.
- **No response.** About 1,530 diesel owners' complaints on DEF, particulate filters and EGR, equipment EPA did not propose to change.

## WHAT IT MEANS FOR YOU

### Litigants

The rule falls only if the court rejects all three grounds. Review with counsel the futility analysis in preamble section V.C and the out of scope list in sections 3.1, 5.11 and 7.1.

### Power plant commenters

Comments on EPA-HQ-OAR-2025-0124 closed November 2, 2026. That proposal uses the same local or regional reading and adds a futility model, so check whether the final rule answers the modeling comments.

### Automakers and suppliers

EPA set no backstop standards and took no action on preemption. Two district courts have held the rescission does not change their preemption analysis.

### Associations and NGOs

EPA's response lists the campaign letters in Appendix A and does not engage their arguments. Detailed comments on the adopted legal grounds reach the part of the record EPA answers at length.

## WHAT TO WATCH

A merits briefing schedule in *American Public Health Association v. EPA*, D.C. Cir. No. 26-1037; the court denied a stay on October 5, 2026.

EPA's decisions on four petitions for reconsideration, and the final power plant rule in EPA-HQ-OAR-2025-0124.

**Full report.** The complete version links every number above to its source and sets each argument beside EPA's answer, with the method, limits and data files. Read the full report, or request a report on your docket, or write to vpanitz@wisc.edu. Download this page as a PDF.

**Method.** All 30,929 posted records collected through the Regulations.gov API, checked again on October 22, 2026; 734 comments' attachments read; positions and themes of individuals from a random sample of 120 typed comments coded by an analyst, which does not represent campaign signatures; the Response to Comments and the final rule read in full.

**Independence.** No client, funder or party to the rulemaking paid for or reviewed this brief. ComtIQ takes no position on the rescission. Analysis, not legal advice. comtiq.com