



Texas Public Policy Foundation

**TESTIMONY OF TED HADZI-ANTICH
U. S. ENVIRONMENTAL PROTECTION AGENCY
CHARTERED CLEAN AIR SCIENTIFIC ADVISORY COMMITTEE (CASAC)
PUBLIC MEETING ON PARTICULATE MATTER
October 22, 2019**

My name is Ted Hadzi-Antich. I am the senior attorney at the Center for the American Future of the Texas Public Policy Foundation, a not-for profit organization dedicated to working to ensure personal liberty, private property rights, and a balanced approach to environmental regulations, among other goals dealing with individual and economic liberty. We are headquartered in Austin, Texas.

On November 9, 2017, I filed on behalf of Delta Construction Company, Inc., Daltron Trucking Company, Inc., Loggers Association of Northern California, Robinson Industries, Inc., Merit Oil Company, and Western States Trucking Association, an administrative petition with the Administrator of EPA asking the Administrator to reconsider and make less stringent the national ambient air quality standards (the “NAAQS”) for fine particulate matter (“PM2.5”), which is set forth at 78 Fed. Reg. 3086 (January 15, 2013). A copy of the petition has been sent to CASAC and is hereby incorporated in this testimony.

The current primary NAAQS for PM 2.5 is 12 micrograms per cubic meter. That standard is now under a mandatory five-year review. The administrative petition calls into serious question the need for the current extremely stringent PM2.5 standard. It summarizes and includes copies of several recent peer-reviewed studies showing that the assumptions underlying the current PM2.5 standard are incorrect. These studies include Roger McClellan’s 2016 paper published at Volume 36 of RISK ANALYSIS titled, *Providing Context for Ambient Particulate Matter and Estimates of Attributable Mortality* and his 2012 paper in Volume 5 of AIR QUALITY, ATMOSPHERE & HEALTH 243 titled *Role of Science and Judgment in Setting National Ambient Air Quality Standards: How Low is Low Enough?* As you know, Roger McClellan is a former chairman of CASAC.

McClellan’s 2012 paper is especially instructive to CASAC’s deliberations in connection with the current review of the PM2.5 NAAQS because it involves an issue addressed by the United States Supreme Court in the case of *Whitman v. Am. Trucking*, 531 U.S. 457 (2001), in which the Court stated that the Clean Air Act “does not require the EPA to eliminate every health risk, however slight, at any economic cost, however great, to the point of ‘hurtling’ industry over ‘the brink of ruin.’” *Id.* at 494. Significantly for purposes our discussion today, in the *Whitman* case the Supreme Court vacated the 1997 NAAQS particulate matter standard because of the poor science and lack of discernable criteria underlying the PM2.5 standard. McClellan’s 2012 paper addresses

those issues of concern focusing specifically on how PM2.5 standards should be approached is a scientifically cogent and defensible way and how CASAC could better exercise its judgment in making recommendations to EPA regarding the “multiple factors that influence morbidity and mortality from respiratory and cardiovascular disease, the major health outcomes for key criteria pollutants.”

In his 2016 paper, McClellan states that there is “a growing body of evidence of a lack of influence of ambient PM2.5 concentrations on mortality.” In some states, like California, the risk of increased mortality associated with PM 2.5 has decreased to the point of non-demonstrability. Moreover, “[i]t is well recognized by scientists and clinicians . . . that none of the individual cases carry ‘markers’ or any characteristics that allow PM2.5 attributable cases to be distinguished from cases that are attributable to a myriad of other causes.”

Other papers authored by James Enstrom, Anne Smith, and Louis Anthony Cox come to similar conclusions. All these papers and other studies are cited and summarized in our administrative petition asking EPA to make the PM2.5 standard less stringent, and I urge you to review it and the studies cited there before developing final recommendations to EPA in connection with the current five-year review of the PM2.5 standard.

Thank you for the opportunity to present testimony today at this meeting of CASAC.