

# Hazardous Air Pollutants under the Federal Clean Air Act

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# Hazardous Air Pollutants

- What is a hazardous air pollutant?
- HAPs receive special treatment under Clean Air Act
  - Sad history of NESHAPs (National Emission Standards for Hazardous Air Pollutants)
  - Section 112 required an “ample margin of safety to protect the public health”
  - Not zero – *Vinyl Chloride v. EPA*’s two step process
- EPA’s response – 1989 benzene HAP (MIR + 1 in 10,000 statutory baseline, with increased controls as population grows)



## The New Title III

- Congress significantly revised the HAP program in 1990
- Now 189 HAPs specifically listed in the statute
- MACT approach
  - 12 percent baseline set by industrial category
  - Hammers for failure to implement
  - Role for subcategories? *NRDC v. EPA* (D.C. Cir. 2007)



## The New Title III

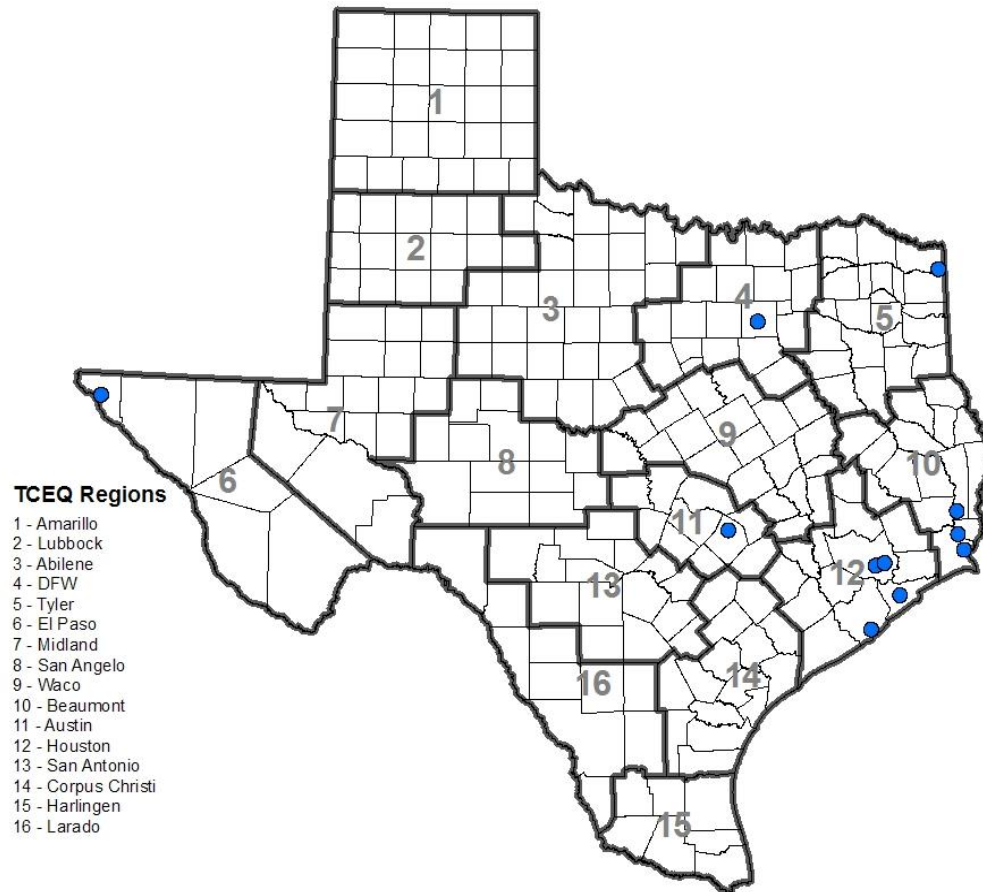
- Major source –
  - 10 tpy of any HAP
  - 25 tpy combined HAP
  - “Once in, always in”
  - Area sources
- Source categories (166 major, 8 area)



## The New Title III

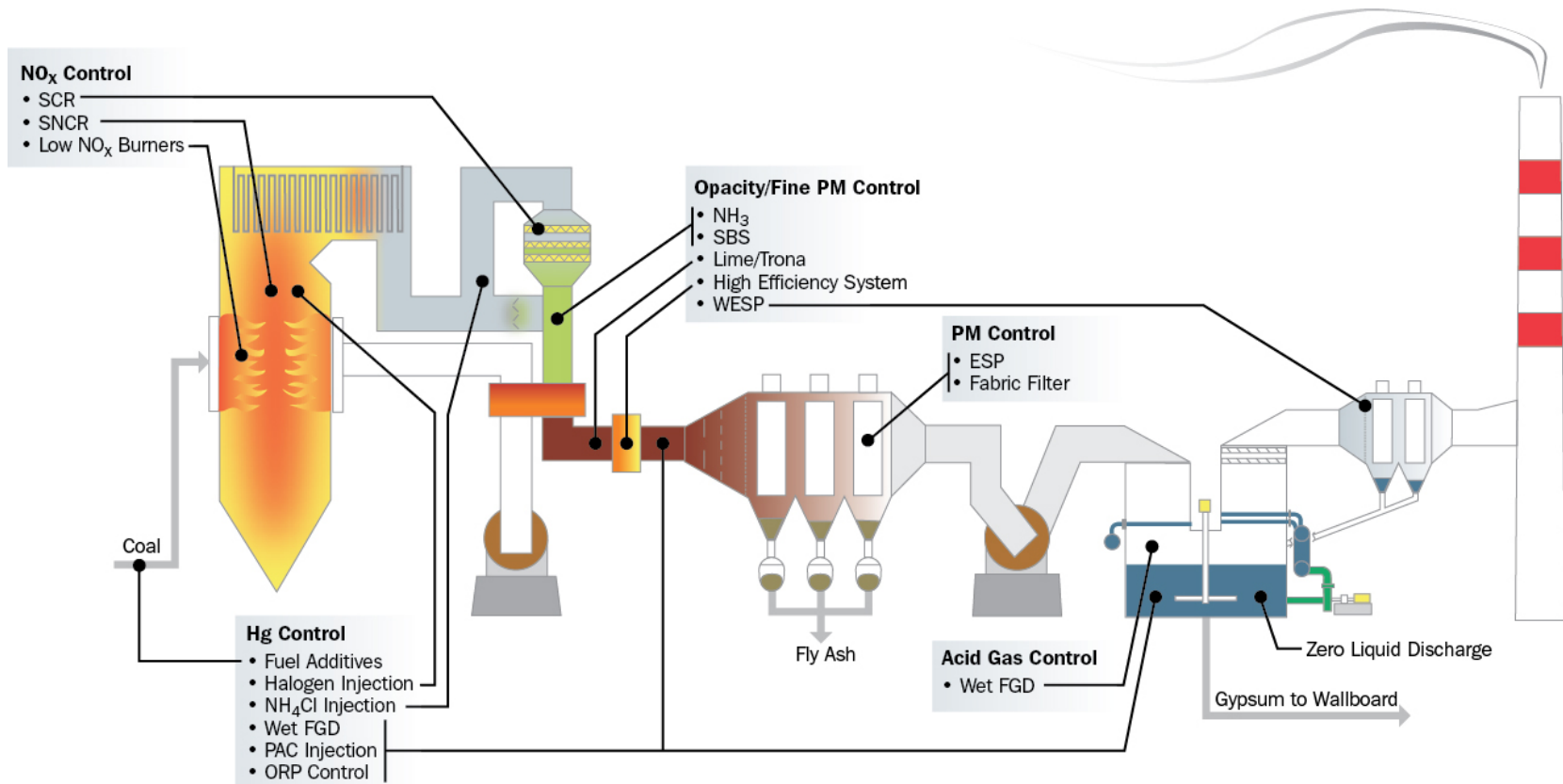
- Residual risk review (section 112(f)(2))
  - How low does EPA have to go?
  - *NRDC v. EPA* (D.C. Cir. 2008)
- State law standards can be more stringent
  - Texas – Air Pollutant Watch Lists  
Effects Screening Levels

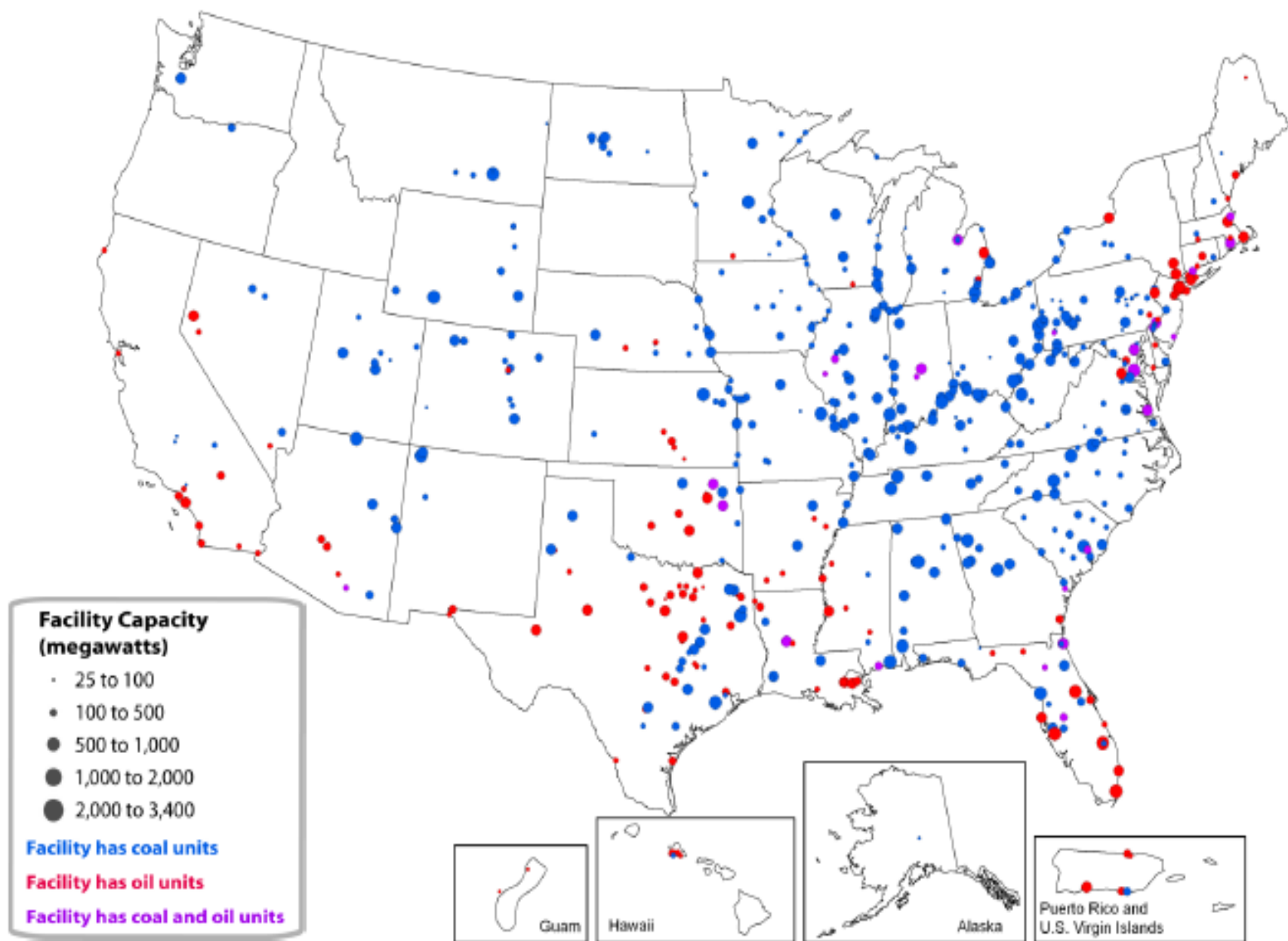
# TCEQ Air Pollutant Watch Lists



# The Latest Word from the U.S. Supreme Court --

★ *Michigan v. EPA* (June 29, 2015)







## *Map of all mercury emissions from power plants in the United States*

Alaska



### **Mercury Emissions**

- 0 - 100 Lbs.
- 101 - 500 Lbs.
- 501 - 1,000 Lbs.
- 1,001 - 2,660 Lbs.



**Dirty Energy's Assault on our Health: Mercury**

Source: U.S. Environmental  
Protection Agency  
TRI Explorer; Releases:  
Trends Reports



**Questions?**

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