Hazardous Air Pollutants under the Clean Air Act

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Hazardous Air Pollutants

- What is a hazardous air pollutant?
- HAPs recent 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”
  - So, 1 in a million? 100 in a million? Does cost matter?
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?
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)

• Special rules for power plants – *Michigan v. EPA* (U.S. 2015)
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

TCEQ Regions

1. Amarillo
2. Lubbock
3. Abilene
4. DFW
5. Tyler
6. El Paso
7. Midland
8. San Angelo
9. Waco
10. Beaumont
11. Austin
12. Houston
13. San Antonio
14. Corpus Christi
15. Harlingen
16. Laredo
Questions?

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