

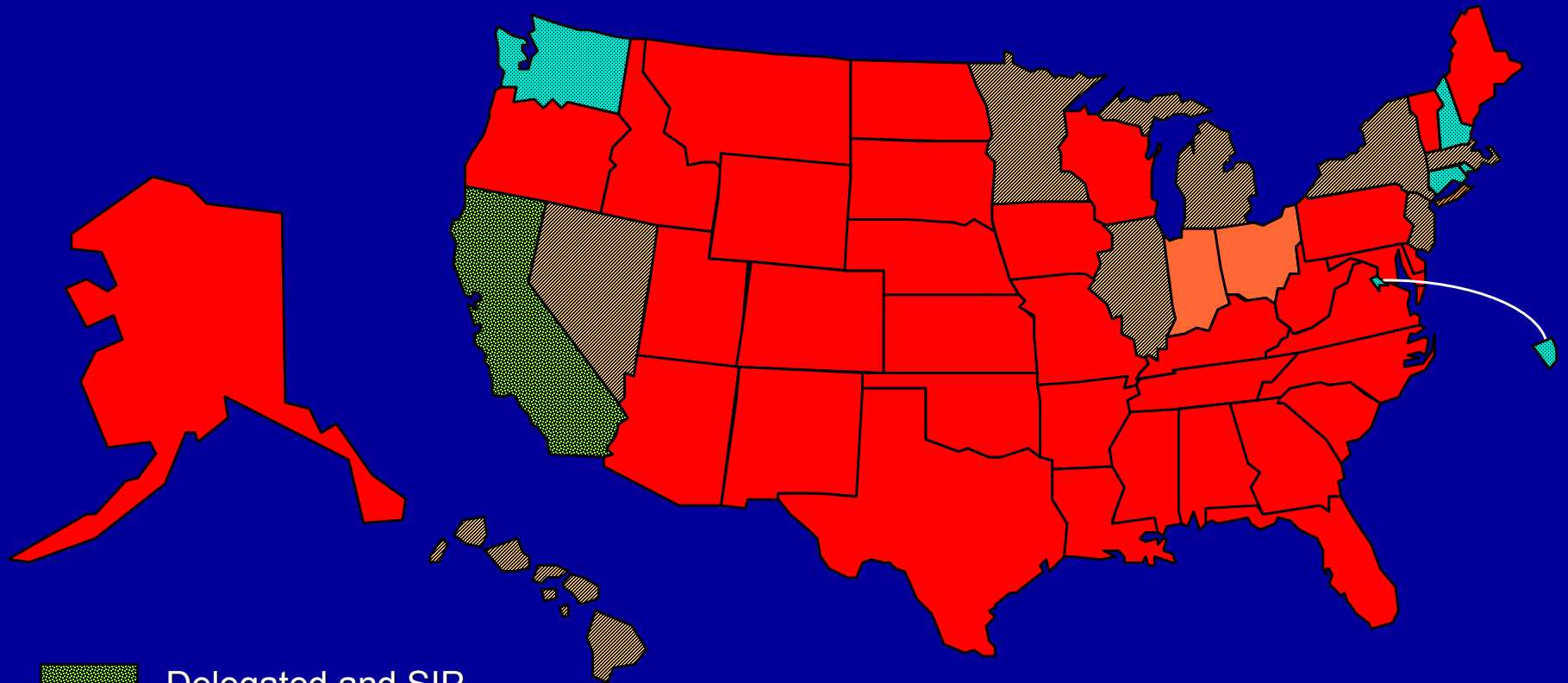
# New Source Review Regulations

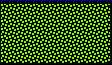
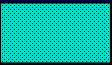


Determining an Appropriate Appeal Process  
for the State PSD Permitting Program

*Environmental Advisory Council*

June 17, 2004

# PSD Program Status



-  Delegated and SIP-approved by district
-  Partial delegation
-  Full delegation
-  Approved PSD SIPs

# Key Features of New NSR SIP

- Closely Tracks Federal Rules
- Reflects Current Federal Rules
- Grants MDEQ More Permitting Autonomy
  - Individual Permitting Decisions
  - Incorporating Future Rule Changes
- Michigan's Air Permitting Program Will More Closely Reflect the National Norm



# NSR SIP Workgroup Status

- **3 Meetings Held** Next Meeting – July 14<sup>th</sup>, 9:30 a.m.
- **Distributed and Discussed Draft Rules**  
Including NSR Programs for Nonattainment and Attainment Areas
- **Workgroup Discussions Will Conclude in August**
- **Public Notice, Comment Period, and Hearing Will Occur in November**



# Building an Appellate Procedure for the State PSD Program?

## Current Appeal Procedures

Attainment Areas –  
EPA-Delegated PSD  
Program

Permit decisions may be  
appealed to the U.S.EPA's  
*Environmental Appeals  
Board*

Non-Attainment Areas –  
SIP Approved Rule 220

Permit decisions may be  
appealed to the Michigan  
Circuit Court

# Summary of Current Process

- EAB is a panel of administrative law judges specializing in EPA permits.
- Any person who participated during the public comment period may appeal.
- Permit automatically stayed while EAB decides if it will hear the appeal.
- Adds 6 mo. – 1 yr. or more to the permit review process.



# Michigan Statutory Framework:

- Act 451 Section 55 Air Pollution Control

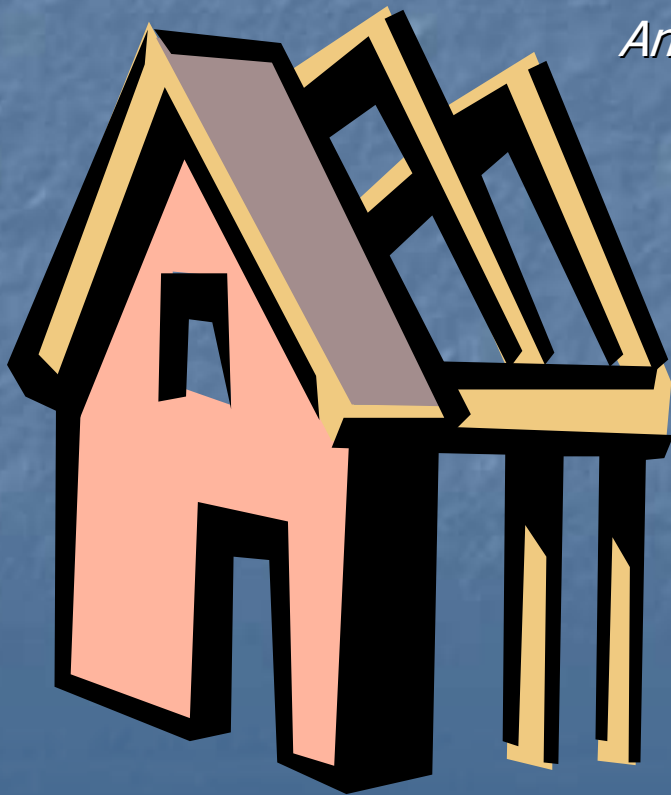
*Any person may appeal permit decisions to the circuit Court...*

- Revised Judicature Act

*An appeal shall lie from any decision of any state agency...*

- Administrative Procedures Act

*The parties in a contested case shall be given an opportunity for a hearing*



# Two Options:

Option 1:

Judicial Hearing

Option 2:

Administrative  
Hearing *AND*  
Judicial Hearing

