

SENATE BILL No. 73

January 25, 2005, Introduced by Senators BIRKHOLZ, GILBERT and GOSCHKA and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 5505 (MCL 324.5505).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5505. (1) Except as provided in subsection (4), a person
2 shall not install, construct, reconstruct, relocate, alter, or
3 modify any process or process equipment without first obtaining
4 from the department a permit to install, or a permit to operate
5 authorized pursuant to rules promulgated under subsection (6) if
6 applicable, authorizing the conduct or activity.

7 (2) The department shall promulgate rules to establish a
8 permit to install program to be administered by the department.
9 Except as provided in subsections (4) and (5), the permit to

1 install program is applicable to each new or modified process or
2 process equipment that emits or may emit an air contaminant. **THE**
3 **START DATE FOR EMISSIONS OFFSETS ELIGIBLE TO BE APPLIED TO A PERMIT**
4 **TO INSTALL SHALL BE THE DATE ESTABLISHED BY FEDERAL RULE OR, IF A**
5 **DATE IS NOT ESTABLISHED BY FEDERAL RULE, JANUARY 1 OF THE YEAR**
6 **AFTER THE EMISSIONS BASELINE YEAR USED FOR THE PURPOSE OF PREPARING**
7 **THE RELEVANT STATE IMPLEMENTATION PLAN. THE DEPARTMENT SHALL USE**
8 **THE AIR EMISSIONS INVENTORY ESTABLISHED UNDER SECTION 5503(K) TO**
9 **TRACK AVAILABLE EMISSIONS OFFSETS.**

10 (3) A permit to install may authorize the trial operation of a
11 process or process equipment to demonstrate that the process or
12 process equipment is operating in compliance with the permit to
13 install issued under this section.

14 (4) The department may promulgate rules to provide for the
15 issuance of general permits and to exempt certain sources,
16 processes, or process equipment or certain modifications to a
17 source, process, or process equipment from the requirement to
18 obtain a permit to install or a permit to operate authorized
19 pursuant to rules promulgated under subsection (6). However, the
20 department shall not exempt any new source or modification that
21 would meet the definition of a major source or major modification
22 under parts C and D of title I of the clean air act, ~~chapter 360,~~
23 ~~91 Stat. 731, 42 U.S.C. 7470 to 7479, 7491 to 7492, 7501 to 7509a,~~
24 ~~and 7511~~ **42 USC 7470 to 7515.**

25 (5) The department may issue a permit to install, a general
26 permit, or a permit to operate authorized under rules promulgated
27 under subsection (6) if applicable, that authorizes installation,

1 operation, or trial operation, as applicable, of a source, process,
2 or process equipment at numerous temporary locations. Such a permit
3 shall include terms and conditions necessary to assure compliance
4 with all applicable requirements of this part, the rules
5 promulgated under this part, and the clean air act, including those
6 necessary to assure compliance with all applicable ambient air
7 standards, emission limits, and increment and visibility
8 requirements pursuant to part C of title I of the clean air act,
9 ~~chapter 360, 91 Stat. 731, 42 U.S.C. 7470 to 7479 and 7491~~ **42 USC**
10 **7470** to 7492, at each location, and shall require the owner or
11 operator of the process, source, or process equipment to notify the
12 department at least 10 days in advance of each change in location.

13 (6) The department may promulgate rules to establish a program
14 that authorizes issuance of nonrenewable permits to operate for
15 sources, processes, or process equipment that are not subject to
16 the requirement to obtain a renewable operating permit pursuant to
17 section 5506.

18 (7) The failure of the department to act on an
19 administratively and technically complete application for a permit
20 to install, a general permit, or a permit to operate authorized
21 under rules promulgated under subsection (6), in accordance with a
22 time requirement established pursuant to this part, rules
23 promulgated under this part, or the clean air act may be treated as
24 a final permit action solely for the purposes of obtaining judicial
25 review in a court of competent jurisdiction to require that action
26 be taken by the department on the application without additional
27 delay.

1 (8) Any person may appeal the issuance or denial by the
2 department of a permit to install, a general permit, or a permit to
3 operate authorized in rules promulgated under subsection (6), for a
4 new source in accordance with section 631 of the revised judicature
5 act of 1961, ~~Act No. 236 of the Public Acts of 1961, being section~~
6 ~~600.631 of the Michigan Compiled Laws~~ **1961 PA 236, MCL 600.631.**
7 Petitions for review shall be the exclusive means to obtain
8 judicial review of such a permit and shall be filed within 90 days
9 after the final permit action, except that a petition may be filed
10 after that deadline only if the petition is based solely on grounds
11 arising after the deadline for judicial review. Such a petition
12 shall be filed no later than 90 days after the new grounds for
13 review arise. Appeals of permit actions for existing sources ~~shall~~
14 ~~be in accordance with~~ **ARE SUBJECT TO** section 5506(14).