

Act No. 57  
Public Acts of 2005  
Approved by the Governor  
June 30, 2005  
Filed with the Secretary of State  
June 30, 2005  
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**STATE OF MICHIGAN  
93RD LEGISLATURE  
REGULAR SESSION OF 2005**

Introduced by Senators Birkholz, Gilbert and Goschka

# **ENROLLED SENATE BILL No. 73**

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 5505 (MCL 324.5505).

*The People of the State of Michigan enact:*

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

(2) The department shall promulgate rules to establish a permit to install program to be administered by the department. Except as provided in subsections (4) and (5), the permit to install program is applicable to each new or modified process or process equipment that emits or may emit an air contaminant. The start date for emissions offsets eligible to be applied to a permit to install shall be the date established by federal rule or, if a date is not established by federal rule, January 1 of the year after the emissions baseline year used for the purpose of preparing the relevant state implementation plan. The department shall make available information in the permit database and the air emissions inventory established under section 5503(k), to identify emissions reductions that may be used as emissions offsets. This subsection does not authorize the department to seek permit changes to make emissions reductions available for use as emissions offsets.

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

(4) The department may promulgate rules to provide for the issuance of general permits and to exempt certain sources, processes, or process equipment or certain modifications to a source, process, or process equipment from the requirement to obtain a permit to install or a permit to operate authorized pursuant to rules promulgated under subsection (6). However, the department shall not exempt any new source or modification that would meet the definition of a major source or major modification under parts C and D of title I of the clean air act, 42 USC 7470 to 7515.

(5) The department may issue a permit to install, a general permit, or a permit to operate authorized under rules promulgated under subsection (6) if applicable, that authorizes installation, operation, or trial operation, as applicable, of a source, process, or process equipment at numerous temporary locations. Such a permit shall include terms and conditions necessary to assure compliance with all applicable requirements of this part, the rules promulgated under this part, and the clean air act, including those necessary to assure compliance with all applicable ambient air standards, emission limits, and increment and visibility requirements pursuant to part C of title I of the clean air act, 42 USC 7470 to 7492, at each location, and shall require the owner or operator of the process, source, or process equipment to notify the department at least 10 days in advance of each change in location.

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

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

(8) Any person may appeal the issuance or denial by the department of a permit to install, a general permit, or a permit to operate authorized in rules promulgated under subsection (6), for a new source in accordance with section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631. Petitions for review shall be the exclusive means to obtain judicial review of such a permit and shall be filed within 90 days after the final permit action, except that a petition may be filed after that deadline only if the petition is based solely on grounds arising after the deadline for judicial review. Such a petition shall be filed no later than 90 days after the new grounds for review arise. Appeals of permit actions for existing sources are subject to section 5506(14).

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Jay E. Randall*

Clerk of the House of Representatives

Approved .....

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Governor