

# SENATE BILL No. 1377

September 9, 2004, Introduced by Senators BIRKHOLZ, BARCIA, VAN WOERKOM, McMANUS and KUIPERS 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  
2 person shall not install, construct, reconstruct, relocate,  
3 alter, or modify any process or process equipment without first  
4 obtaining from the department a permit to install, or a permit to  
5 operate authorized pursuant to rules promulgated under  
6 subsection (6) if applicable, authorizing the conduct or  
7 activity.

8       (2) The department shall promulgate rules to establish a  
9 permit to install program to be administered by the department.  
10 Except as provided in subsections (4) and (5), the permit to  
11 install program is applicable to each new or modified process or

1 process equipment that emits or may emit an air contaminant. **The**  
2 **start date for emissions offsets eligible to be applied to a**  
3 **permit to install shall be the date established by federal rule**  
4 **or, if a date is not established by federal rule, January 1 of**  
5 **the year after the emissions baseline year used for the purpose**  
6 **of preparing the relevant state implementation plan. The**  
7 **department shall use the air emissions inventory established**  
8 **under section 5503(k) to track available emissions offsets.**

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

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

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

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

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

18 (7) The failure of the department to act on an  
19 administratively and technically complete application for a  
20 permit to install, a general permit, or a permit to operate  
21 authorized under rules promulgated under subsection (6), in  
22 accordance with a time requirement established pursuant to this  
23 part, rules promulgated under this part, or the clean air act may  
24 be treated as a final permit action solely for the purposes of  
25 obtaining judicial review in a court of competent jurisdiction to  
26 require that action be taken by the department on the application  
27 without additional 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  
3 to operate authorized in rules promulgated under subsection (6),  
4 for a new source in accordance with section 631 of the revised  
5 judicature act of 1961, ~~Act No. 236 of the Public Acts of 1961,~~  
6 ~~being section 600.631 of the Michigan Compiled Laws~~ **1961 PA 236,**  
7 **MCL 600.631.** Petitions for review shall be the exclusive means  
8 to obtain judicial review of such a permit and shall be filed  
9 within 90 days after the final permit action, except that a  
10 petition may be filed after that deadline only if the petition is  
11 based solely on grounds arising after the deadline for judicial  
12 review. Such a petition shall be filed no later than 90 days  
13 after the new grounds for review arise. Appeals of permit  
14 actions for existing sources ~~shall be in accordance with~~ **are**  
15 **subject to** section 5506(14).