

HOUSE BILL No. 5890

April 26, 2018, Introduced by Reps. Pagel, LaFave, Brann, Cambensy, Dianda, Kosowski and Rendon and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 5505 (MCL 324.5505), as amended by 2005 PA 57.

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 make
8 available information in the permit database and the air emissions
9 inventory established under section 5503(k), to identify emissions
10 reductions that may be used as emissions offsets. This subsection
11 does not authorize the department to seek permit changes to make
12 emissions reductions available for use as emissions offsets.

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

17 (4) The department may promulgate rules to provide for the
18 issuance of general permits and to exempt certain sources,
19 processes, or process equipment or certain modifications to a
20 source, process, or process equipment from the requirement to
21 obtain a permit to install or a permit to operate authorized
22 pursuant to rules promulgated under subsection (6). However, the
23 department shall not exempt any new source or modification that
24 would meet the definition of a major source or major modification
25 under parts C and D of title I of the clean air act, 42 USC 7470 to
26 7515.

27 (5) The department may issue a permit to install, a general

1 permit, or a permit to operate authorized under rules promulgated
 2 under subsection (6) if applicable, that authorizes installation,
 3 operation, or trial operation, as applicable, of a source, process,
 4 or process equipment at numerous temporary locations. Such a permit
 5 shall ~~include~~ **DO BOTH OF THE FOLLOWING:**

6 **(A) INCLUDE** terms and conditions necessary to ~~assure~~ **ENSURE**
 7 compliance with all applicable requirements of this part, the rules
 8 promulgated under this part, and the clean air act, including those
 9 necessary to ~~assure~~ **ENSURE** compliance with all applicable ambient
 10 air standards, emission limits, and increment and visibility
 11 requirements pursuant to part C of title I of the clean air act, 42
 12 USC 7470 to 7492, at each location. ~~, and shall require~~

13 **(B) REQUIRE** the owner or operator of the process, source, or
 14 process equipment to notify the department at least 10 days in
 15 advance of each change in location. **HOWEVER, IF ELECTRONIC**
 16 **NOTIFICATION IS USED, THE NOTIFICATION SHALL BE GIVEN AT LEAST THE**
 17 **FOLLOWING NUMBER OF BUSINESS DAYS IN ADVANCE OF THE CHANGE OF**
 18 **LOCATION:**

19 **(i) 5 BUSINESS DAYS UNLESS SUBPARAGRAPH (ii) APPLIES.**

20 **(ii) 2 BUSINESS DAYS, IF, AT LEAST 10 DAYS BEFORE THE CHANGE**
 21 **OF LOCATION, THE OWNER PROVIDED THE DEPARTMENT A LIST OF**
 22 **ANTICIPATED OPERATING LOCATIONS FOR THAT CALENDAR YEAR AND IF THE**
 23 **CHANGE OF LOCATION IS ON THAT LIST.**

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

1 section 5506.

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

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

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.