
SENATE COMMITTEE AMENDMENTS

2024 Regular Session

Substitute for Original Senate Bill No. 275 by Senator Lambert as proposed by Senate Committee on Environmental Quality.

This document reflects the content of a substitute bill but is not in a bill form; page numbers in this document DO NOT correspond to page numbers in the substitute bill itself.

To enact Chapter 16-A of Title 30 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 30:2383.1 through 2383.11, relative to air monitoring; to provide for creation of the community air monitoring; to provide for a purpose; to provide for standards for community air monitoring programs; to provide for data collection; to provide for applicability; to provide for definitions; to provide for program requirements; to provide for data communication; to provide for prohibited uses of data; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 16-A of Title 30 of the Louisiana Revised Statutes of 1950, comprised of R.S. 30:2383.1 through 2383.11, is hereby enacted to read as follows:

CHAPTER 16-A LOUISIANA COMMUNITY AIR

MONITORING RELIABILITY

§2383.1. Short title

This chapter shall be known and may be cited as the Louisiana Community Air Monitoring Reliability Act.

§2383.2. Purpose

The purpose of this Chapter is to establish state standards for community air monitoring programs operated by entities to ensure that the data collected from such programs provides the public with access to accurate air quality information.

§2383.3. Applicability

This Chapter shall apply to entities that have implemented community air monitoring programs as defined in this Chapter.

§2383.4. Definitions

As used in this Chapter, unless the context indicates otherwise, the following terms have the following meanings:

(1) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access as defined in 40 CFR 50.1.

(2) "Community air monitoring programs" means measurement systems, testing equipment, tools, and processes of ambient air used or developed for the purpose of collecting air emissions data and measuring or recording air pollutant concentrations by entities that received public funds or use private funds. Such shall include both one-time monitoring events as well as multi-sampling events. Monitoring performed by "reporting entities" as defined in this Section for any purpose, including as required under judicial or administrative action, are excluded from this definition and shall be subject to the requirements of the applicable statutes, rules, judicial action, or administrative action governing monitoring by reporting entities.

(3) "Criteria air pollutants" include those air pollutants for which NAAQS have been established under Section 109 of the federal Clean Air Act, 42 U.S.C. 7409, including ozone, particulate matter, carbon monoxide, lead, sulfur dioxide, and nitrogen dioxide.

(4) "Department" means the Louisiana Department of Environmental Quality.

(5) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

(6) "Hazardous air pollutant" means a hazardous air pollutant as such term is defined in Section 112(a) of the federal Clean Air Act, 42 U.S.C. 7412.

(7) "Toxic air pollutants" means the term as defined in LAC 33:5103.

(8) "National Ambient Air Quality Standards" or "NAAQS" means the national ambient air quality standards established under Section 109 of the federal Clean Air Act, 42 U.S.C. 7409.

(9) "Public funds" means any money that has been awarded, granted, distributed, or otherwise provided by federal, state, tribal, or local governments, departments, agencies, and instrumentalities.

(10) "Private funds" means any money other than "public funds".

(11) "Reporting entities" means any organization, group, company, owner, or operator of a stationary source developing or administering an air monitoring program.

(12) "Stationary source" means a stationary source as such term is defined in Section 112(a) of the federal Clean Air Act, 42 U.S.C. 7412(a).

§2383.5. Community air monitoring program requirements

A. Community air monitoring programs which seek to conduct monitoring of criteria air pollutants for the purpose of alleging violations or noncompliance with the federal Clean Air Act, Louisiana Environmental Quality Act, or any other applicable law, rule, or regulation for which the state has primary enforcement authority shall use the science-based standards set forth in 40 CFR Part 50, including the NAAQS.

B. Community air monitoring programs which seek to conduct monitoring of hazardous air pollutant or toxic air pollutant emissions for the purpose of alleging violations or noncompliance with the federal Clean Air Act, Louisiana Environmental Quality Act, or any other applicable law, rule, or regulation for which the state has primary enforcement authority shall use the most current Environmental Protection Agency-approved or promulgated emission test or monitoring method, or the most current and best available version of such methods approved or promulgated by the Environmental Protection Agency.

§2383.6. Data collection integrity

The parameters, equipment, and analytical methods along with any modeling or mapping software utilized for analysis of the monitoring data shall use the most current Environmental Protection Agency-approved or promulgated emission test or monitoring method. Analysis must be conducted through a laboratory approved by the Louisiana Environmental Laboratory Accreditation Program, known as LELAP, or include quality assurance certification of methods or equipment. Utilization of proprietary or not publicly

available equipment or methods shall not be acceptable for community air monitoring programs.

§2383.7. Monitoring for criteria air pollutants

A. The department may use the data collected through the community air monitoring program to review compliance with the state's promulgated air monitoring requirements as part of its assessment of compliance with the air quality standards in 40 CFR Part 50, including the NAAQS.

B. If community air monitoring data indicates that ambient air is not in compliance with the NAAQS as determined in accordance with 40 CFR Part 50, the department may consider necessary actions to address the issue, including but not limited to, identifying sources of pollution, implementing pollution control measures, and engaging in public outreach and education. All actions taken by the department to address noncompliance with NAAQS shall be consistent with the Clean Air Act, if applicable.

§2383.8. Monitoring for hazardous air pollutants

A. The department may use the data collected through the community air monitoring program to review compliance with the state's ambient air quality standards for hazardous air pollutants and toxic air pollutants.

B. If community air monitoring data indicates that ambient air is not in compliance with the ambient air standards specified in LAC 33:III.Chapter 51, the department may consider necessary actions to address the issue, including but not limited to identifying sources of pollution, implementing pollution control measure, and engaging in public outreach and education. All actions taken by the department to address noncompliance with ambient air standards shall be consistent with the Louisiana Environmental Quality Act, if applicable.

§2383.9. Data communication

Any release or communication of the collected monitoring data shall include clear explanations of data interpretation, appropriate context, including the applicable or comparable ambient air standard data limitations, and relevant uncertainties.

§2383.10. Prohibition on use of monitoring data

A. Data produced from community air monitoring programs alone is insufficient to demonstrate a stationary source is in violation of rule, regulation, or permit condition.

B. To promote compliance with this Chapter and the collection of accurate and reliable data from community air monitoring programs, any data produced from community air monitoring programs that are not in compliance with this Chapter shall not be used, disclosed, or disseminated by the department for purposes of or in support of the following:

(1) Issuing a fine, penalty, or violation against any person, including the owner or operator of a stationary source.

(2) Bringing an administrative, regulatory, or judicial enforcement action or proceeding against any person, including the owner or operator of a stationary source.

C. The prohibitions under this Section apply to use by the department or any person of any monitoring data not in compliance with this Chapter for purposes of alleging violations or noncompliance with the federal Clean Air Act, Louisiana Environmental Quality Act, or any other applicable law, rule, or regulation for which the state has primary enforcement authority.

§2383.11. Severability

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jacob K. Wilson.

Proposed law requires that any communication of collected data include explanations, context, applicable air standard data limitations, and relevant uncertainties.

Proposed law provides that data produced by programs alone is not sufficient to show a violation of applicable law or permit. Further provides that DEQ shall not use data from community air monitoring programs that are not in compliance with proposed law for issuing a fine, penalty, or violation or for pursuing an enforcement action or proceeding.

Proposed law prohibits use of data not in compliance with proposed law for alleging a violation of or noncompliance with present law or any other law for which the state has primary enforcement authority.

Proposed law provides that invalidity of any provision of proposed law shall not affect any other provision or application of proposed law that can be effective without the invalid provision. Further provides that the provisions of proposed law are severable.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 30:2383.1-2383.11)