

SENATE BILL NO. 503 (Substitute of Senate Bill No. 275 by Senator Lambert)

BY SENATOR LAMBERT

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AN ACT

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 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.

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

11 (3) "Criteria air pollutants" include those air pollutants for which
12 NAAQS have been established under Section 109 of the federal Clean Air Act,
13 42 U.S.C. 7409, including ozone, particulate matter, carbon monoxide, lead,
14 sulfur dioxide, and nitrogen dioxide.

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

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

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

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

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

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

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

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

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

1 **§2383.5. Community air monitoring program requirements**

2 **A. Community air monitoring programs which seek to conduct**
3 **monitoring of criteria air pollutants for the purpose of alleging violations or**
4 **noncompliance with the federal Clean Air Act, Louisiana Environmental**
5 **Quality Act, or any other applicable law, rule, or regulation for which the state**
6 **has primary enforcement authority shall use the science-based standards set**
7 **forth in 40 CFR Parts 50 and 58, including the NAAQS.**

8 **B. Community air monitoring programs which seek to conduct**
9 **monitoring of hazardous air pollutant or toxic air pollutant emissions for the**
10 **purpose of alleging violations or noncompliance with the federal Clean Air Act,**
11 **Louisiana Environmental Quality Act, or any other applicable law, rule, or**
12 **regulation for which the state has primary enforcement authority shall use an**
13 **Environmental Protection Agency-approved or promulgated emission test or**
14 **monitoring method, or the latest revision to such methods approved or**
15 **promulgated by the Environmental Protection Agency.**

16 **§2383.6. Data collection integrity**

17 **The parameters, equipment, and analytical methods along with any**
18 **modeling or mapping software utilized for analysis of the monitoring data shall**
19 **use the most current Environmental Protection Agency-approved or**
20 **promulgated emission test or monitoring method. Analysis must be conducted**
21 **through a laboratory approved by the Louisiana Environmental Laboratory**
22 **Accreditation Program, known as LELAP, or include quality assurance**
23 **certification of methods or equipment. Utilization of proprietary or not publicly**
24 **available equipment or methods shall not be acceptable for community air**
25 **monitoring programs.**

26 **§2383.7. Monitoring for criteria air pollutants**

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

31 **B. If community air monitoring data indicates that ambient air is not in**
32 **compliance with the NAAQS as determined in accordance with 40 CFR Part 50,**
33 **the department may consider necessary actions to address the issue, including**

1 but not limited to identifying sources of pollution, implementing pollution
2 control measures, and engaging in public outreach and education. All actions
3 taken by the department to address noncompliance with NAAQS shall be
4 consistent with the federal Clean Air Act, if applicable.

5 §2383.8. Monitoring for hazardous air pollutants

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

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

16 §2383.9. Data communication

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

21 §2383.10. Prohibition on use of monitoring data

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

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

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

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

1 stationary source.

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

7 §2383.11. Severability

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

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____