

2015 Regular Session

HOUSE BILL NO. 590

BY REPRESENTATIVE COX

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ENVIRONMENT/AIR: Requires fence-line air monitoring systems at certain facilities

1 AN ACT

2 To enact R.S. 30:2067, relative to air quality; to require a fence-line air monitoring system  
3 at certain facilities; to provide for definitions; to provide for submission and approval  
4 of an air monitoring plan; to provide for notices; to provide for public comment and  
5 inspection; to provide for the authority of the Department of Environmental Quality;  
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 30:2067 is hereby enacted to read as follows:

9 §2067. Air quality monitoring

10 A. For purposes of this Section, the following terms shall have the meanings  
11 ascribed to them in this Section, unless the context clearly indicates otherwise:

12 (1) "Facility" means any source of air pollutants that is required to obtain a  
13 federally enforceable operating permit in accordance with 40 CFR Part 70.

14 (2) "Fence-line air monitoring system" means equipment that measures and  
15 records air pollutant concentrations along the property boundary of a facility used  
16 for detecting an exceedance of air quality standards or the existence of a public  
17 health threat and includes the following:

18 (a) A meteorological station, unless a meteorological station is located on the  
19 facility property.

1           (b) Real-time data collection whereby the data collected from the system is  
2           not stored for later processing, rather that it is collected, processed, and transmitted  
3           simultaneously and without delay, such that an exceedance of air quality standards  
4           can be identified and addressed and the state and local communities warned, while  
5           the exceedance occurs.

6           (c) Ability to publish real-time data on the Internet for public inspection and  
7           to send a real-time text message or telephone call community alert system for  
8           first-responders, municipalities, and community members in the event of an  
9           exceedance of air quality standards or the existence of a public health threat.

10           (d) Back-up power systems such that there is no more than two percent  
11           downtime in system operation.

12           (e) Utilizes fourier transform infrared spectroscopy with both ultraviolet and  
13           laser monitors which take automated measurements of the air pollutant  
14           concentrations at the facility along one or more monitoring paths having a  
15           monitoring path length of one thousand meters or more.

16           B.(1) On or before July 1, 2017, the owner or operator of each existing  
17           facility shall submit to the department a plan for establishing and operating four  
18           fence-line air monitoring systems along the north, south, east, and west of the facility  
19           borders. The plan shall be based on rules and regulations promulgated by the  
20           department pursuant to the provisions of this Section. The plan shall include detailed  
21           information describing the equipment to be used to monitor, record, and report air  
22           pollutant levels, wind direction, the siting, operation, and maintenance of this  
23           equipment, and procedures for implementing data quality assurance and quality  
24           control. The plan shall be updated within one year of the department promulgating  
25           any revised rules and regulations pursuant to this Section.

26           (2) Prior to approval of any application for construction or a major  
27           modification of a facility after July 1, 2017, the owner or operator shall obtain  
28           approval of a fence-line air monitoring plan from the department.

1           C. On or before July 1, 2016, the department shall promulgate, in accordance  
2           with the Administrative Procedure Act, rules and regulations providing for criteria  
3           the department shall apply in reviewing proposed fence-line air monitoring systems  
4           required by this Section. These criteria shall be updated by the department every  
5           five years from the initial promulgation in consideration of advances in air  
6           monitoring technology, updated information regarding the health effects of air  
7           pollutants, and review of data collected by existing fence-line air monitoring systems  
8           established pursuant to this law. These criteria shall include, but are not limited to,  
9           the following:

10           (1) Specifications for pollutant coverage, siting, third-party operator  
11           standards, instrumentation, operation, maintenance, quality assurance, quality  
12           control, and data reporting.

13           (2) Monitoring for specific chemicals in emissions, leaks, and pollutants,  
14           including all criteria pollutants under the Environmental Protection Agency's  
15           national primary and secondary ambient air quality standards, 40 CFR Part 50, and  
16           class I and class II toxic air pollutants under LAC 33:III.5101 et seq., and other  
17           pollutants that are hazardous to human health and that are most common to each  
18           facility type.

19           (3) Location of equipment at the facility boundaries on the north, south, east,  
20           and west. A facility that shares a contiguous border with another facility may share  
21           a single fence-line air monitoring system along that border, so long as that fence-line  
22           air monitoring system meets the requirements for both facilities.

23           (4) Implementation of community air monitoring systems in the vicinity of  
24           all facilities, as defined in Subsection A of this Section, on or before July 1, 2017.  
25           A community air monitoring system is equipment that measures and records air  
26           pollutant concentrations in the ambient air at or near sensitive receptor locations near  
27           a facility, and which may be useful for estimating associated pollutant exposures and  
28           health risks, and in determining trends in air pollutant levels over time.

1           D.(1) Within forty-five days of receipt of the fence-line air monitoring plan,  
2           the department shall complete a preliminary review of the plan to identify any  
3           deficiencies. If the department determines that the submitted plan is deficient, the  
4           department will notify the facility owner or operator in writing. The notification will  
5           specify the basis for this determination and the required corrective action. Upon  
6           receipt of such notification, the owner or operator shall correct the plan and resubmit  
7           the proposed plan within forty-five days. If the department determines that the  
8           facility owner or operator failed to correct any deficiency identified in the  
9           notification, the department shall disapprove the plan.

10           (2) The plan, including any revisions made to correct deficiencies, except for  
11           information designated as confidential, shall be made available for public inspection  
12           for at least forty days. The department shall consider any written comments received  
13           during this period prior to approving or disapproving the final plan.

14           (3) Within forty-five days of the close of the public comment period, the  
15           department shall approve the fence-line air monitoring plan if the department  
16           determines that the plan meets the requirements of this Section and any rules and  
17           regulations promulgated pursuant to this Section. This period may be extended if  
18           necessary as determined by the department. Upon approval or disapproval of the  
19           plan, the department shall provide written notification to the owner or operator. If the  
20           plan is disapproved, the notification will specify the basis for this determination.  
21           Within forty-five days of receipt of a disapproval notification, the owner or operator  
22           shall correct the identified deficiencies and resubmit the plan.

23           (4) Within fifteen days of the approval or disapproval of a fence-line air  
24           monitoring plan, the department shall publish the plan on the department's website  
25           and shall notify any person who submitted comments to the plan, or who otherwise  
26           requested notification of this action in writing. In making information available for  
27           public inspection, requests for confidentiality shall be governed by LAC 33:I.501 et  
28           seq.

1           E. When submitting a fence-line air monitoring plan, or other documents or  
 2           records required by this Section, the facility owner or operator shall designate as  
 3           confidential any information claimed to be exempt from public disclosure under  
 4           LAC 33:I.501 et seq. If a document is submitted that contains information  
 5           designated confidential, the owner or operator shall provide a justification for this  
 6           designation and shall submit a separate copy of the document with the information  
 7           designated confidential redacted.

8           F. Within one year of the approval of a fence-line air monitoring, the facility  
 9           owner or operator shall install and operate a fence-line air monitoring system in  
 10           accordance with the approved fence-line air monitoring plan. The owner or operator  
 11           shall report collected fence-line air monitoring system data to the department on an  
 12           annual basis beginning one year from the date of approval of the plan and shall  
 13           maintain records of the data for a period of five years from the date the data is  
 14           collected.

15           G. By July 1, 2017, the department shall develop and implement a system  
 16           to monitor the real-time data submitted from fence-line air monitoring systems, so  
 17           as to respond timely when a fence-line air monitoring system indicates there is an  
 18           exceedance of air quality standards or the existence of a public health threat.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 590 Original

2015 Regular Session

Cox

**Abstract:** Requires certain facilities to implement a fence-line air monitoring system.

Proposed law requires a facility required to obtain an operating permit in accordance with federal law to implement a fence-line air monitoring system in accordance with a plan approved by the Dept. of Environmental Quality.

Proposed law defines a "fence-line air monitoring system" as equipment that measures and records air pollutant concentrations along the property boundary of a facility to detect an exceedance of air quality standards or a threat to public health. Requires that the system include a weather station, real-time data collection, the ability to publish real-time data, back-up power systems, and utilizes fourier transform infrared spectroscopy.

Proposed law requires that the owner or operator for each existing facility submit to the department by July 1, 2017, a detailed plan for establishing and operating a fence-line air monitoring systems based on rules and regulations promulgated pursuant to proposed law. Further requires the plan to be updated within one year of the department promulgating any revised rules and regulations.

Proposed law requires the owner or operator to obtain approval of a fence-line air monitoring plan from the department prior to approval of any application for construction or a major modification of a facility after July 1, 2017.

Proposed law requires, on or before July 1, 2016, the department to promulgate, in accordance with the Administrative Procedure Act, rules and regulations providing for criteria used to review proposed fence-line air monitoring systems. Proposed law requires these criteria to include technical specifications, the chemicals monitored, location of equipment, and implementation of a community air monitoring system. Further requires the criteria to be updated by the department every five years from the initial promulgation.

Proposed law provides for a procedure for submitting a plan by the owner or operator and consideration of approval by the department. The procedure includes notices to the owner or operator of plan deficiencies and of approval or disapproval, notice to the public, and a public comment and inspection period.

Proposed law authorizes the facility owner or operator to designate as confidential any information claimed to be exempt from public disclosure in accordance with the department's rules and regulations. Proposed law requires such claims to be accompanied by a justification for this designation and submission of a separate copy of the document with the information designated confidential redacted.

Proposed law requires within one year of the approval of a fence-line air monitoring plan the installation and operation of a fence-line air monitoring system in accordance with the plan.

Proposed law requires the owner or operator to report the collected data to the department on an annual basis beginning one year from the date of approval of the plan and shall maintain records for a period of five years.

Proposed law requires, by July 1, 2017, the department to develop and implement a system to monitor the real-time data submitted from fence-line air monitoring systems, so as to respond timely when a fence-line air monitoring system that indicates there is an exceedance of air quality standards or public health threat.

(Adds R.S. 30:2067)