Text for ‘Monitoring and Enforcement of Air Quality – Department of Environmental Quality’

*Welcome to LLA Reports, a podcast produced by the Louisiana Legislative Auditor’s office. This podcast is intended to be an oral representation of the written report it highlights and is primarily for the use of the Louisiana Legislature.*

This is Kristen Jacobs. I’m a senior auditor with LLA’s Performance Audit Services. This episode of LLA Reports focuses on our new report titled “Monitoring and Enforcement of Air Quality.”

Under state law, the Department of Environmental Quality – DEQ, for short – is the primary agency concerned with environmental protection and regulation, including regulating and monitoring air quality.

We conducted this audit because Louisiana has a high concentration of industrial facilities requiring air permits. In addition, the Environmental Integrity Project compared budgets and staffing for environmental agencies across the country and found that between fiscal years 2008 and 2018, Louisiana’s DEQ ranked fourth among states in staffing cuts and third in budget cuts.

Air pollution in Louisiana comes from a variety of sources, and the potential health risks depend on the type of pollutant, the concentration of pollutant in the air, and the frequency and duration of exposure.

Our analysis of the United States Environmental Protection Agency data found the number of good air quality days in Louisiana increased by about 21 percent between 2008 and 2018, while the number of unhealthy days for sensitive groups decreased 75 percent.

However, Louisiana has the highest toxic air emissions per square mile of any state, according to the EPA’s Toxics Release Inventory. The EPA’s most recent National Air Toxics Assessment also showed parts of Louisiana have high potential cancer risks.

Overall, we found DEQ could strengthen its monitoring and enforcement processes by identifying violations and issuing enforcement actions in a timelier manner.

Specifically, DEQ should strengthen its monitoring process to identify permitted facilities that fail to submit their required self-monitoring reports. In addition, DEQ should review these reports in a timely manner so it can identify and address facilities with self-reported violations. Automating and standardizing the submission of these self-monitoring reports could also help DEQ improve its monitoring process.

We found as well that DEQ does not issue enforcement actions in a timely manner for facilities that violate air permit requirements. From fiscal years 2015 through 2019, the time it took DEQ to issue enforcement actions increased 102 percent, from an average of 289 days to an average of 585 days. That means facilities could have violations that remain uncorrected for years.

In addition, of the 69 enforcement actions issued in this time frame that were based on a citizen complaint, 42 – nearly 61 percent – were not issued within DEQ’s goal of 90 days. According to best practices, effective enforcement includes swift and predictable responses to violations.

DEQ handles violations through various enforcement actions, including issuing penalties or negotiating penalties through settlement agreements.

However, the department does not effectively track penalties it has assessed or whether facilities have paid their penalties. DEQ management does not currently have reports that can easily identify how much has been assessed in penalties and what penalties are outstanding or have been paid.

Unlike other states, Louisiana is unique in that a facility initiates a settlement instead of DEQ specifying a penalty amount. According to DEQ officials, the department uses this process to obtain additional information such as mitigating circumstances, monetary benefits of non-compliance, and the duration of violations, which helps in calculating the penalty amount.

We found DEQ could improve its settlement process by developing deadlines for when facilities must submit their settlement offers and by processing these offers more quickly. For 46 enforcement actions finalized through settlements between fiscal years 2015 and 2019, it took an average of 4.4 months for DEQ to receive a settlement offer and an additional 2.1 years on average, to finalize an agreement.

We also found that DEQ faces challenges related to low staffing levels, high workloads, frequent turnover of staff, and ineffective data systems that make it more difficult to perform its regulatory work.

For instance, despite Louisiana’s large number of facilities required to have a major – or Title V – air permit, DEQ’s positions dedicated to air regulation decreased from 247 in fiscal year 2010 to 211 in fiscal year 2019, while turnover at the agency averaged nearly 11 percent during the same time period.

DEQ also relies on the coordination of paper-based systems to manage the data it collects, which hinders its efforts. DEQ officials said they are working on drafting regulations for electronic reporting so that facilities would not be required to submit reports by mail, and DEQ staff would not have to scan every report.

As a result of our audit, we made 11 recommendations to DEQ. They included varying the times when the department inspects facilities, requiring secondary evidence – such as photographs – to show inspections actually occurred, and reviewing facilities’ self-monitoring reports in a timely manner.

In addition, we recommended that DEQ continue to pursue electronic report submission, develop formal time frames for how long it should take to issue enforcement actions, and develop additional reporting capabilities for enforcement staff and management.

We also recommended that DEQ streamline its penalty and settlement processes, develop integrated reports that allow it to identify what penalties and settlements have been paid, and establish a time frame for facilities to submit their settlement offers.

Finally, we recommended that DEQ determine whether its staffing levels are adequate for its monitoring work and request more funding if they are not, and that it continue to work toward developing and implementing a comprehensive data system.

In their response to our report, which is detailed in the report appendix, DEQ officials agreed with 10 of the recommendations and disagreed with one.

*We hope you found this podcast informative, and that you’ll follow future episodes of LLA Reports.*

*This podcast was created as part of the audit report just discussed and is intended primarily for the use of the Louisiana Legislature. Both the full report and the podcast can be found on the LLA’s website at* [*www.lla.la.gov*](http://www.lla.la.gov)*.*

*Thank you for listening.*