

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA**

RISE ST. JAMES LOUISIANA, et al.,

Plaintiffs,

v.

COURTNEY J. BURDETTE, in her official
capacity as Secretary of the Louisiana
Department of Environmental Quality, et al.,

Defendants.

Civil Action No. 3:25-cv-00429-JWD-RLB

**PLAINTIFFS' REPLY IN SUPPORT OF THEIR
MOTION FOR SUMMARY JUDGMENT**

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INTRODUCTION

Defendants do not defend Louisiana’s Community Air Monitoring Reliability Act (CAMRA) as written, instead portraying it as nothing more than a rule of evidence for use in state enforcement proceedings. The plain language of the statute, however, directly regulates community air monitoring programs—and the speech of the community groups that operate them—independent of any state enforcement proceeding. CAMRA therefore directly regulates the activities and speech of each of the Plaintiffs, all of whom operate community air monitoring programs and wish to use the information they obtain to advise their neighbors and regulators about the air quality they measure.

In an effort to defeat this Court’s jurisdiction, Defendants emphasize that CAMRA does not itself include an enforcement mechanism. If CAMRA were unenforceable, this lawsuit would be unnecessary. But the state legislature codified CAMRA in a subtitle that Defendants are authorized to enforce through administrative and judicial actions for civil liability, including crippling civil penalties. Defendants have offered no basis for concluding that they lack the authority to enforce CAMRA against Plaintiffs that collect, use, or disseminate air quality data that does not satisfy CAMRA’s onerous requirements. And Defendants have offered no assurance that, if this Court concludes that CAMRA imposes substantive restrictions on community air monitoring programs, they would refuse to enforce CAMRA’s restrictions against community groups that speak negatively about the quality of the air they detect.

CAMRA, as written, unconstitutionally abridges Plaintiffs’ rights to speech and petition and irreconcilably conflicts with federal law. This Court should exercise jurisdiction, grant Plaintiffs’ motion for summary judgment, and grant them declaratory and injunctive relief to prevent Defendants from enforcing CAMRA against them.

ARGUMENT

I. CAMRA’s restrictions are substantive and enforceable.

Plaintiffs have detailed how CAMRA substantively restricts community groups’ ability to collect, use, and disseminate air quality information. Pls.’ Mem. (ECF 25-1) 3–4, 7–10 (discussing La. R.S. §§ 30:2381.5, .6, .9, and .10). Defendants insist, however, that CAMRA is a “law regulating admissible evidence for initiating or proving state environmental enforcement.” Defs.’ Opp. (ECF 43) 1. Defendants also suggest that CAMRA’s restrictions are not enforceable because “CAMRA contains no standalone penalty scheme aimed at community monitors and no complaint or investigative mechanism targeting Plaintiffs.” *Id.* at 4; *see also id.* at 10. The first argument is foreclosed by CAMRA’s text, and the second is disingenuous.

A. Although Defendants portray CAMRA as an evidentiary rule, the words “evidence” and “admissibility” do not appear in the statutory text. In particular, sections 2381.6 and 2381.9 directly regulate analysis and communication of air quality information without any statutory language limiting their application to state enforcement proceedings. Section 2381.5, while referring to “alleg[ations],” also says nothing about state enforcement proceedings or indeed any judicial or administrative proceedings at all. Section 2381.10 provides that community air monitoring data “is insufficient to demonstrate” a violation, La. R.S. § 30:2381.10.A, and makes it unlawful to disclose air quality data that does not comply with CAMRA for purposes of *any* enforcement action against polluters (not merely state enforcement proceedings), *id.* § 30:2381.10.B & C. Accordingly, Subsection C goes further than an evidentiary rule because it bars even disclosing the information so that a court can assess its evidentiary value.

Two other provisions confirm CAMRA’s substantive reach. First, CAMRA’s stated purpose is to regulate the air quality data that a community group can “provide[] the public.” *Id.* § 30:2381.2. Plaintiffs discussed this speech-controlling purpose in their memorandum, *see* Pls.’

Mem. 9, and Defendants have failed to rebut it, *see* Defs.’ Opp. 13–14. Second, CAMRA includes a severability provision, which provides that the invalidity of “any provision” of CAMRA “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.” La. R.S. § 30:2381.11. The severability provision confirms that each of CAMRA’s substantive requirements on community air monitoring programs operates as an independent restriction.

Defendants repeatedly attempt to analogize CAMRA to the “the rule against hearsay.” Defs.’ Opp. 1; *see id.* at 13 n.3, 17. Unlike the hearsay rule, however, which applies equally to all litigants, CAMRA applies only to “entities that have implemented community air monitoring programs.” La. R.S. § 30:2381.3. Had the legislature intended merely to create a new evidentiary rule for the use of air quality data in state enforcement proceedings, there would have been no reason to single out community groups for disfavored treatment.

B. As Plaintiffs’ have explained, Pls.’ Mem. 4–5, 14–15, Defendants may enforce CAMRA against Plaintiffs through civil actions and may seek civil penalties for violations of CAMRA’s requirements. *See* La. R.S. § 30:2025. Although Defendants do not dispute the existence of their enforcement authority, they respond that “CAMRA contains no standalone penalty scheme aimed at community monitors and no complaint or investigative mechanism targeting Plaintiffs.” Defs.’ Opp. 4; *see also id.* at 10. Through the plain language of the statute, a standalone penalty scheme is not required to empower Defendants to enforce CAMRA. By codifying CAMRA in a subtitle of state law that Defendants are authorized to enforce, the legislature made clear that CAMRA imposes substantive restrictions on community air monitoring programs and that violations of CAMRA may be enforced through existing enforcement mechanisms. The practical effect—and

the deterrent effect—on Plaintiffs is the same as if the legislature had written that enforcement mechanism into CAMRA itself.

II. This Court has jurisdiction to reach the merits of Plaintiffs’ claims.

Because CAMRA imposes substantive, enforceable restrictions on Plaintiffs, Defendants’ jurisdictional objections are baseless.

A. Plaintiffs have Article III standing.

“When a plaintiff is an object of a regulation there is ordinarily little question that the action or inaction has caused him injury.” *Texas Med. Ass’n v. U.S. Dep’t of Health & Hum. Servs.*, 110 F.4th 762, 773 (5th Cir. 2024) (internal quotation marks omitted); *see Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561–62 (1992). CAMRA specifies that it “shall apply to entities that have implemented community air monitoring programs as defined in [CAMRA].” La. R.S. § 2381.3. Plaintiffs are such entities and thus are the object of the law. *See* Pls.’ Mem. 5 (describing Plaintiffs’ monitoring programs).

Defendants argue that Plaintiffs’ injuries are “self-imposed” because “they chose to pause monitoring and publication only after CAMRA’s enactment due to feared penalties.” Defs.’ Opp. 3. But “chilled speech or self-censorship is an injury sufficient to confer standing.” *Inst. for Free Speech v. Johnson*, 148 F.4th 318, 327 (5th Cir. 2025) (quoting *Barilla v. City of Houston, Tex.*, 13 F.4th 427, 431 (5th Cir. 2021)). When a plaintiff is “presently or prospectively subject to the regulations, proscriptions, or compulsions that [it is] challenging,” a federal court has jurisdiction to adjudicate the plaintiff’s claim. *Laird v. Tatum*, 408 U.S. 1, 11 (1972); *cf. Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 419 (2013) (explaining that the “chilling effect” of governmental surveillance was not sufficient to confer standing in those circumstances because the challenged “governmental policy [did] not regulate, constrain, or compel any action on [the plaintiffs’] part.”). Although Plaintiffs can avoid liability under CAMRA by not speaking on air quality, “the need to

take such affirmative steps to avoid the risk of harm ... constitutes a cognizable injury,” *Meese v. Keene*, 481 U.S. 465, 475 (1987), rather than a self-inflicted one. *See Fed. Election Comm’n v. Cruz*, 596 U.S. 289, 298 (2022) (holding that “forgo[ing] the exercise of a First Amendment right” to “avoid[] ... liability” is an injury that confers standing).

Defendants wrongly assert that there is no “credible threat” of liability because the “enforcement mechanism” does not “target[]” CAMRA violations. Defs.’ Opp. 4. As explained above, however, the legislature chose to codify CAMRA in a portion of the state code that Defendants have authority to enforce through civil actions and substantial penalties. *See supra* pp. 3–4. That enforcement mechanism, therefore, does target community groups that violate CAMRA. In any event, when free speech is at stake, “courts will assume a credible threat of prosecution in the absence of compelling contrary evidence.” *Barilla*, 13 F.4th at 432 (internal quotation marks omitted). Defendants offer no such evidence.

Moreover, as Plaintiffs have explained, the Louisiana Department of Environmental Quality (LDEQ) Report, ECF No. 25-10, undercuts Defendants’ assurances that Plaintiffs face no credible threat of enforcement because, unlike Defendants’ litigation posture in this case, the LDEQ Report describes CAMRA as a substantive regulation of community air monitoring programs. *See* Pls.’ Mem. 11–12. Although Defendants respond that the LDEQ Report “reflects technical distinctions between sensors and monitors that exist regardless of CAMRA,” Defs.’ Opp. 6, they fail to grapple with the report’s explanation that CAMRA regulates air quality information disseminated by community groups to Louisiana communities through substantive requirements—requirements that, as explained above, Defendants can enforce through civil actions.

Defendants’ remaining arguments regarding traceability, redressability, and whether CAMRA regulates speech turn on Defendants’ characterization of CAMRA as a rule of evidence.

Defs.’ Opp. 6–9. Because that reading of CAMRA is wrong, *see* Pls.’ Mem. 3–4, 7–10, those arguments fail.

B. This Court has jurisdiction under *Ex parte Young*.

Defendants argue that the state attorney general is not a proper defendant under *Ex parte Young*, 209 U.S. 123 (1908), because her role in “civil enforcement” is “discretionary.” Defs.’ Opp. 10. But the cases where discretionary enforcement authority has been found insufficient under *Ex parte Young* involve state attorneys general sued because of their general authority to enforce the state’s laws, as opposed to a specific responsibility to enforce particular statutes. *See* Pls.’ Mem. 14–15. The cases on which Defendants rely do not suggest otherwise. *See White Hat v. Murrill*, 141 F.4th 590, 600 (5th Cir. 2025) (concluding that “the Attorney General’s role [as] the ‘chief legal officer of the state’” did not trigger *Ex parte Young*); *Mi Familia Vota v. Ogg*, 105 F.4th 313, 328 (5th Cir. 2024) (“[A] general duty to ‘see that justice is done’ ... is not enough.”); *Robicheaux v. Caldwell*, 986 F. Supp. 2d 749, 752 (E.D. La. 2013) (holding that state attorney general’s “responsibility to enforce the laws of the State of Louisiana” does not trigger *Ex parte Young*). Here, the state attorney general has a specific duty under La. R.S. § 30:2025 to represent LDEQ in enforcement actions or to approve alternative representation. *See* Pls.’ Mem. 15. The attorney general is therefore a proper defendant in this case.

With respect to LDEQ officials, Defendants argue that they are not proper defendants because they lack the willingness to enforce CAMRA against Plaintiffs. Defs.’ Opp. 10–11. Even assuming a “willingness” to enforce is required to invoke *Ex parte Young*, *see* Pls.’ Mem. 15–16, that requirement is satisfied. As Plaintiffs have explained, *id.* at 16, the “comprehensive refusal of an officer with mandatory statutory duties to repudiate those obligations” is sufficient to satisfy any willingness requirement. *Healthy Vision Ass’n v. Abbott*, 138 F.4th 385, 400 n.2 (5th Cir. 2025); *see Inst. for Free Speech*, 148 F.4th at 333. Secretary Burdette and Assistant Secretary Lang have

mandatory duties to enforce Subtitle II of Title 30, *see* La. R.S. § 30:2025.A, .C(3) (directing that officials “shall” take action), and they (and their predecessors) have exercised that authority repeatedly. *See* LDEQ, Enforcement Actions, <https://deq.louisiana.gov/page/enforcement-actions>. When the legislature codified CAMRA in the same subtitle, it gave LDEQ officials the ability to exercise their enforcement authority against CAMRA violators, as those officials have done against those who violate other provisions of Subtitle II.

Defendants argue that these enforcement duties are insufficient to “show a concrete plan to wield CAMRA against Plaintiffs’ activities.” Defs.’ Opp. 11. But as Defendants acknowledge, that would only be true if Defendants were correct that “CAMRA is an evidentiary limitation” and not a “stand-alone prohibition on Plaintiffs’ speech or monitoring.” *Id.* at 11. Defendants have *not* provided any assurance that they would decline to carry out their duty to enforce CAMRA if this Court concludes that CAMRA imposes substantive restrictions on community groups, as the statutory text indicates and the LDEQ Report confirms. *See* ECF No. 25-10, at 7. Defendants’ failure to provide any evidentiary basis for concluding that they are unwilling to enforce CAMRA’s substantive restrictions against Plaintiffs is fatal to their assertion of state sovereign immunity. In these circumstances, *Ex parte Young* thus authorizes this Court to grant relief to Plaintiffs.

III. CAMRA violates the First Amendment.

Defendants’ defense of CAMRA under the First Amendment hinges on their attempt to portray CAMRA as a law that “regulates only the evidentiary use of monitoring data in enforcement, not public monitoring, publication, advocacy, or petitioning.” Defs.’ Opp. 13. According to Defendants, CAMRA is “akin to how courts apply rules like those governing hearsay to exclude unreliable proof.” *Id.* at 13 n.3. As explained above, however, *supra* pp. 3–4, evidentiary rules like hearsay apply equally to all litigants. By contrast, CAMRA applies only to one class of

speakers: “entities that have implemented community air monitoring programs.” La. R.S. § 30:2381.3. Defendants’ attempt to refashion CAMRA as a rule of evidence to mask its constitutional infirmity cannot succeed.

Even viewed solely as an evidentiary rule, CAMRA is not content neutral. *See* Defs.’ Opp. 14–15. “Government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed.” *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015). The hearsay rule, for instance, does not consider whether the proponent of the evidence is the plaintiff or the defendant or, as a general matter, the content of the out-of-court statement sought to be used as evidence. Under Defendants’ reading of CAMRA, however, the evidentiary weight of air quality data in enforcement proceedings turns on whether the proponent is a community group (as opposed to LDEQ or an industrial facility) and whether the data indicates a violation of or noncompliance with clean air laws (as opposed to compliance with such laws). CAMRA is thus content-based (and viewpoint-based) because it “singles out specific subject matter ... for differential treatment” and burdens speech based on “the specific motivating ideology or the opinion or perspective of the speaker.” *Hines v. Pardue*, 117 F.4th 769, 788 n.4, 789 (5th Cir. 2024) (internal quotation marks omitted). The fact that CAMRA imposes substantive restrictions on the collection, use, and dissemination of air quality data outside of state enforcement proceedings against violators of pollution permits makes the constitutional infirmity all the more flagrant.

Defendants assert that sections 2381.6 and 2381.9 of CAMRA, La. R.S. §§ 30:2381.6, .9, permissibly compel speech because they only “require disclosure of technical quality-assurance information—such as method, calibration or uncertainty, and data provenance—*when monitoring results are presented for regulatory purposes or in support of enforcement.*” Defs.’ Opp. 15

(emphasis added). The italicized limitation does not appear in the text of sections 2381.6 or 2381.9; both sections prohibit any dissemination of air quality information without the CAMRA-mandated disclosures. Moreover, Defendants are wrong to suggest that disclosure requirements do not need to satisfy strict scrutiny if they “do not compel anyone to adopt, endorse, or convey an ideological message.” *Id.* In *Riley v. National Federation of the Blind of North Carolina, Inc.*, 487 U.S. 781 (1988), the Supreme Court invalidated a law compelling professional fundraisers to disclose the amount of funds turned over to charities, explicitly rejecting the argument that strict scrutiny should not apply to “compelled statements of ‘fact.’” *Id.* at 797. Defendants do not attempt to defend the disclosures required by sections 2381.6 or 2381.9 under strict scrutiny. *See* Defs.’ Opp. 16.

Defendants also argue that CAMRA is not a viewpoint-based or speaker-based regulation of speech because it “imposes neutral reliability thresholds for data used to allege noncompliance, and those thresholds apply regardless of who offers the data—community groups, industry, or the government.” *Id.* Notably, however, Defendants do not identify any statutory language that applies CAMRA’s requirements to industry or regulators. Nor could they, because CAMRA expressly excludes “reporting entities” from CAMRA’s reach, La. R.S. § 2381.4(2), (11), and defines governmental entities separately from “community air monitoring programs,” *id.* § 2381.4(2), (4), (5). And Defendants do not dispute that air quality information used to *defend* against allegations of noncompliance or violation of clean air laws (whether in an enforcement proceeding or in public debate) may be disseminated without regard to CAMRA’s requirements. Speech is restricted only when the allegation concerns the failure to comply with clean air laws.

Finally, with respect to Plaintiffs’ Petition Clause claim, Defendants’ proffered defense again would require the Court to construe CAMRA as solely a rule of evidence. *See* Defs.’ Opp.

17–18. As Plaintiffs have explained, however, CAMRA’s plain language makes it unlawful for Plaintiffs to disseminate air quality data that does not meet CAMRA’s onerous requirements to regulators, courts, and policymakers. *See* Pls.’ Mem. 21–22. Attaching liability to constitutionally protected petitioning activity violates the Petition Clause.

Plaintiffs are entitled to summary judgment on their First Amendment claims.

IV. CAMRA is preempted.

As Plaintiffs’ memorandum explained, Pls.’ Mem. 23, CAMRA outlaws what federal law seeks to encourage. The Clean Air Act encourages information-sharing with the Environmental Protection Agency (EPA) by rewarding persons who “furnish[] information ... which lead[s] to a criminal conviction or a judicial or administrative civil penalty.” 42 U.S.C. § 7413(f); *see also id.* § 7413(a), (b), (d), (f). The Clean Air Act also authorizes individuals to bring suit against polluters under the Act’s citizen suit provisions. *Id.* § 7604. And Congress and the EPA have authorized and issued grants to promote greater use of air sensors and community air monitoring. *See* Pls.’ Mem. 24 (discussing initiatives). By attaching civil liability to the collection, use, and dissemination of air quality data by community groups to the public, regulators, and courts, CAMRA undermines each of these federal laws and policy objectives.

Defendants do not attempt to reconcile federal law with CAMRA’s requirements as actually spelled out in clear statutory text. Their preemption defense rests entirely on reading CAMRA as a rule of evidence in state enforcement actions. Defs.’ Opp. 19–21. Because that reading is foreclosed by CAMRA’s text, their preemption defense fails.

CONCLUSION

The Court should grant Plaintiffs’ motion for summary judgment.

October 27, 2025

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