Purpose of the Draft Proposed Action:

The regulations are being amended to add requirements for ozone precursor monitoring, and related definitions. Because the proposed changes are substantively identical to federal requirements, a Preliminary Regulatory Impact Assessment (PRIA) is not required by Louisville Metro Air Pollution Control District (LMAPCD) Regulation 1.08. However, LMAPCD has prepared one to provide further background and analysis of the proposed amendments.

Scope of the Draft Proposed Amendments:

On June 4, 2018 (with an effective date of August 3, 2018), U.S. EPA designated the Louisville area as marginal nonattainment for the 2015 Ozone National Ambient Air Quality Standard (NAAQS), including all of Jefferson, Bullitt, and Oldham counties in Kentucky as well as Clark and Floyd Counties in Indiana. *Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards*, 85 Fed. Reg. 25,776 (June 4, 2018). Ground level ozone is not emitted directly into the air but is created by chemical reactions between oxides of nitrogen ($\text{NO}_x$) and volatile organic compounds (VOC) in the presence of sunlight. Emissions from industrial facilities and electric utilities, motor vehicle exhaust, gasoline vapors, and chemical solvents are some of the major sources of $\text{NO}_x$ and VOC.

This designation initiated a series of requirements for the area under the Clean Air Act and related federal regulations. Specifically, under Section 182 of the Clean Air Act nonattainment areas are required to submit State Implementation Plans (SIPs) which “require that the owner or operator of each stationary source of oxides of nitrogen or volatile organic compounds provide the State with a statement… showing the actual emissions of oxides of nitrogen and volatile organic compounds from that source.” *Plan submissions and requirements*, 42 U.S.C. § 7511a(a)(3)(B)(i) (1990). The only exception is that “The State may waive the application of
clause (i) to any class or category of stationary sources which emit less than 25 tons per year of volatile organic compounds or oxides of nitrogen if the State… provides an inventory of emissions from such class or category of sources, based on the use of the emission factors.” Id.; see also Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements, 83 Fed. Reg. 62,998 at 63,023 fn. 56 (Dec. 6, 2018) (hereinafter “Implementation Rule”).

In this action, the District is proposing to add a section to Regulation 1.06 implementing this requirement for all sources of VOCs or NO\textsubscript{X} which emit over 25 tons of either pollutant in a given year. In addition to the information already required in emissions statements, a new subsection to Section 3 is being proposed, which allows the District to request additional information from sources as necessary. This provision is intended to allow the District to request additional information that may be necessary to conduct ozone-season related analysis, for example calculating pounds per typical ozone season day, without being as prescriptive as the Draft Rule in U.S. EPA Guidance on Emission Statements. See Office of Air Quality and Planning Standards, Office of Air and Radiation, U.S. Environmental Protection Agency, Guidance on the Implementation of an Emission Statement Program (1992), available at https://www.epa.gov/air-emissions-inventories/implement-ation-emission-statement-program. For example, information which may be requested under these amendments include monthly production and throughput data, or other information as listed in U.S. EPA’s Draft Rule.

The proposal also makes other minor conforming amendments to section 3 of Regulation 1.06, and renumbers former section 6.

**Estimated Costs and Savings:**

The information which is proposed to be required to be submitted is already generally required to be kept by sources or should be able to be derived from such information. Approximately 54 additional facilities would be potentially covered by the lower reporting threshold of 25 tons per year based on their potential to emit (PTE) for VOCs alone. The number of sources with greater than 25 tons of annual NO\textsubscript{X} emissions is likely substantially lower than this. Sources which already report emissions to LMAPCD annually (40 in 2018) would also be required to add reporting of pounds of emissions of NO\textsubscript{X} and VOCs per typical ozone season day.

Neither the legislative history of the Clean Air Act Amendments of 1990, nor the Implementation Rule gave cost estimates for the emissions statements requirement. In order to calculate costs the District instead looked to the cost estimates U.S. EPA developed for the Mandatory Reporting of Greenhouse Gases (GHGs) rule. Mandatory Reporting of Greenhouse Gases, 74 Fed. Reg. 56,259 (Oct. 30, 2009) (hereinafter “GHG Reporting Rule”). The District believes this is a conservative estimate, because even though the calculations are ten years old,
the GHG Reporting Rule was setting up a new program for pollutants often not monitored at all before, let alone reported. Furthermore, the GHG Reporting Rule required reporting by several “upstream” sources which provided fossil fuels which were to be subsequently burned as fuel, thus it is a vastly more expansive program. Finally, cost estimates included capital costs for additional monitoring equipment for some source categories, which would not be required to comply with this rule. Id. at 56,361-64. First year and subsequent year costs under that rule were estimated for representative entities across 29 different source categories. Regulatory Impact Analysis for the Mandatory Reporting of Greenhouse Gas Emissions Final Rule (GHG Reporting) Final Report, EPA-HQ-OAR-2008-0508-002 (Sept. 2009) (hereinafter “GHG Reporting Rule RIA”) at 4-1 to 4-5. For the chosen option under the GHG Reporting Rule EPA estimated first year costs for representative entities in the source categories that ranged from $3,000 to $60,000 with a median cost of $12,000 per facility. Subsequent year costs ranged from $2,000 to $39,000 per representative facility, with a median of $9,000. GHG Reporting Rule RIA at 4-83 to 4-84, Table 4-62.

Feasibility of All Alternatives:

According to the U.S. EPA “[t]he benefits of a reporting system are based on their relevance to policy making, transparency issues, and market efficiency. Benefits are very difficult to quantify and monetize.” GHG Reporting Rule at 56,368. Transparency benefits the public generally, in helping keep emitters accountable. Reporting benefits government generally, and the District specifically, in having full information available in any future policy making decisions. Benefits to industry include having more complete data available in their own decision-making, and opportunities to discover waste and for emissions reductions. Furthermore, as reporting requirements are expanded and additional institutional knowledge and capacity is developed associated costs generally decline. Id. at 536,368-69. However, U.S. EPA did not develop any monetization of the benefits of the GHG Reporting Rule, or emissions reductions estimates. Id.

Ultimately, these amendments are being recommended by the District because they are required by federal law. The alternative would be the potential for U.S. EPA to issue a Federal Implementation Plan (FIP), along with associated sanctions.

Comparison with Any Minimum or Uniform Standards:

Report on Public Outreach Efforts:

Drafts of proposed Regulations were proposed for formal review on April 15, 2020, and sent to: to all members of the Louisville Metro Air Pollution Control Board, all persons who have requested to be notified of proposed changes to any District regulations; EPA Region 4; and the Kentucky Division for Air Quality.

The public will have an opportunity to comment at a meeting of the appropriate committee of the Air Pollution Control Board, during the formal public comment period, and at a public hearing prior to consideration by the full Board.