

for the 1-hour standard until that point in time. The remaining portion of the newly-designated 8-hour ozone area must comply only with the 8-hour ozone NSR requirements and offset ratios (if applicable).

#### 9. NSR Option To Encourage Development Patterns That Reduce Overall Emissions—Clean Air Development Communities

EPA is considering two options to recognize the air quality benefits which can accrue when areas site new sources and plan development in a manner that results in overall reduced emissions. EPA would define a community that changes its development patterns in such a way that air emissions within the non-attainment area are demonstrably reduced as a “Clean Air Development Community” (CADC). We propose that areas that qualify as CADCs would obtain certain flexibilities in implementing CAA programs. We request comments on the options listed here and encourage commenters to suggest other ways under the CAA that we could encourage development that will result in lower emissions.

In the first option, a CADC would have a more flexible NSR program by: (1) Being subject to subpart 1 NSR as opposed to subpart 2 NSR; (2) lowering NSR major source thresholds for these areas to make them similar to the thresholds for PSD areas; and (3) allowing areas that meet certain development criteria (development zones) to receive NSR offsets from State offset pools. In the second option, a CADC would be able to receive a pool of NSR offset credits equal to the reduced emissions from new development patterns. Credits from the pool could be provided to any new or modified source in a “development zone” as offsets.

The first goal of a CADC option is that it would give communities a tool to achieve air quality benefits that can accrue from strategic location of new sources. The location of new sources (often major job centers) can affect regional development patterns and air emissions. As a result, new sources have a dual impact on air quality. The first impact is from their own direct emissions and the second impact is from the emissions associated with other sources whose development is influenced by the new source and any change in travel patterns (positive or negative) that may result. This option attempts to recognize the net impact that a new source has on a region, not just from their own stationary emissions, but also from their associated stationary, area and mobile source

emissions influenced by the location of the new source. It provides a mechanism to recognize the relative emissions reductions associated with locating major job centers in close proximity with transit, commercial/retail destinations, and workforce housing.

Furthermore, the EPA recognizes that brownfields<sup>74</sup> are often prime candidates to realize these locational benefits. Brownfields, as sites of previous economic activity, frequently enjoy excellent proximity to a variety of destinations and a range of transportation infrastructure. Second, given their potentially contaminated state, manufacturing or other industrial uses are often the appropriate type of revitalization. The productive re-use of these sites is a priority for the Agency. This option will provide flexibility within CAA programs to achieve the dual goals of brownfields revitalization and reduced air emissions.

The second goal of a CADC program would be that it would allow communities to use the air benefits of their development practices as an incentive for locating new sources and their associated economic growth.

Anthropogenic emissions within a region come from three kinds of sources: Mobile sources, areas sources, and stationary sources. Thus, the ability of a region to accommodate new stationary sources is dependent not only on stationary source emissions but also on mobile and area source emissions. Localities which choose to engage in development that reduces emissions from mobile and area sources, with either of these options, could have the opportunity to turn those reductions into incentives for siting new economic activity.

It should be noted that an area that decides to become a CADC is, in effect, transferring to the stationary source sector emission reductions which normally would remain in the mobile source sector where they could, for example, be used for conformity determinations. Areas would have to think through the implications for them of doing this.

<sup>74</sup> Brownfields are generally considered to be abandoned or underutilized properties (especially industrial and commercial facilities) where redevelopment or expansion may be complicated by possible environmental contamination (real or perceived). However, a brownfield site, as defined by The Small Business Liability Relief and Brownfields Revitalization Act of January 11, 2002, is any “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.” Further information is available at: <http://www.epa.gov/compliance/resources/faqs/cleanup/brownfields/index.html>.

While we have not decided to go forward with either of these options at this time, we are continuing to examine them and, therefore, request comment on them. In particular, we request comment and suggestions on possible legal rationales for supporting these options which would enable them to be implemented through rulemaking. We are also very interested in other potential incentives that we could provide in addition to or instead of those included in this proposal. (We encourage commenters to focus on those incentives that are within EPA control.) In addition, we request comment on implementation barriers, as well as the analytical complexities in the estimation of emission benefits from changes to development patterns that areas would need to calculate in order to become a CADC. Public comments will help us determine how and whether to include either option in the final rulemaking.

#### a. *What is EPA considering? Option 1:*

EPA is considering a package of three kinds of flexibility for areas subject to subpart 2 whose land use development meets certain criteria. First, we would allow CADC's to be covered under the NSR program under subpart 1 rather than under subpart 2 if: (a) They adopt specific land use measures into their SIPs that reduced air emissions; and, (b) they demonstrate that air quality would not decrease as a result of using subpart 1 instead of subpart 2. This demonstration would have to quantify the emissions reductions from adopted land use measures in their SIPs and show that the decreases from the land use measures are sufficient to offset any potential increase in emissions from using subpart 1 instead of subpart 2. Second, we would lower the NSR major source thresholds for CADC areas to make them similar to those under the PSD provisions. Third, we would allow development zones, areas that meet certain development criteria, to receive NSR offsets from “pools” or “banks” of offsets established by the State. (A pool would be created by the State's taking action or requiring others to take actions that meet the criteria for NSR offsets. The State would then collect these offsets and could distribute them to new development that would occur in specific areas.) We believe that these actions would help steer development to development zones where fewer regional emissions would occur than if the development had occurred elsewhere. In addition, the change in land use patterns may help areas reduce their mobile source emissions. EPA requests comments on whether an area