

necessity of engaging the private sector, has sought specifically to encourage development on brownfields.

j. *What are some of the land use strategies measures included in "Improving Air Quality Through Land Use Activities"?* The guidance includes a number of different activities that may generate on-road mobile source emissions reductions. A sampling of them includes:

- Grant incentives to build concentrated activity centers; encouraging pedestrian and transit travel by creating high density mixed use nodes that can be easily linked by a transit network.
- Change zoning regulations to allow or encourage mixed-use development; this encourages pedestrian travel by putting compatible land uses next to each other.
- Build, or require developers to install, pedestrian and bicycle facilities; and increase the number of sidewalks, paths, crosswalks, bike lanes, etc., to make walking and bike use safe.
- Transfer unused development capacity in outlying areas to increase density above existing limits in central areas and near transit nodes; this moves development away from outlying areas and toward already developed areas.
- Provide incentives such as reduced parking requirements to new in-fill development; this takes advantage of existing infrastructure and discourages driving.

EPA were to go forward with this concept the Guidance would be formally incorporated by reference.

k. *Does the CAA include the concept of increased flexibility in the NSR program in cases where development is targeted in appropriate areas?* Yes, Section 173(a)(1)(B) replaces the traditional requirement that a new or modified stationary source in a nonattainment area obtain offsets with a growth allowance concept in specially designated zones to which "economic development should be targeted." EPA recognizes, however, that this proposal differs in many respects from section 173.

l. *Does this option mandate any changes to local land use decisions?* No. The CAA, in Section 131, clearly supports the position that land use decisions are local. This option would simply recognize that areas that choose to develop in certain patterns are doing more to improve air quality and that such efforts should be rewarded.

m. *How would this option be enforced?* Since the CADC measures would be in the SIP, they could not be changed without EPA approval of a SIP revision. If measures are changed they

must be replaced with other measures of equal or greater effectiveness, and otherwise meet the requirements of section 110(l) concerning anti-backsliding. Failure to do so would mean that either of these options would no longer apply to the area. EPA understands that it does not have the authority to control local land use decisions. The choice always rests with the community, however, it doesn't get the advantages of being a CADC unless it puts the measures in its SIP. Should it decide to change a land use measure in the SIP, the issue for EPA would be whether or not other new measures yield sufficient reductions to allow the area to remain a CADC. The land use measure itself would be approved. EPA requests comments on how best to enforce these options.

n. *What are the relative advantages of the two options?* The first option provides greater incentive for communities and is, therefore, more likely to encourage changes to land development policies. The second option is simpler since it does not make changes to NSR. As a result, unlike option 1, it does not require communities to estimate the increased emissions that could result from changing NSR applicability—which admittedly would be difficult.

o. *What are the disadvantages of this proposal?* In addition to the modeling issues discussed above in section f, there are several other issues associated with providing flexibilities, such as reducing NSR requirements, for areas that adopt CADC land use measures. It may be difficult to ensure that the CADC land use measures are implemented by areas participating in the option. It may also be difficult to design penalty measures if those land use measures are not implemented by areas. In addition, if the CADC should fail to achieve its envisioned land use pattern, how would the MPO model the area for purposes of conformity. By encouraging growth in established areas, this option may raise environmental justice concerns and unanticipated costs for low-income residents. Some States may have difficulties managing and tracking offset pools. EPA requests comment on all of these issues and how we can best resolve them.

#### 10. Tribal Concerns

In addition, we expect that some Tribal areas will be designated as nonattainment because of pollution that is transported from the surrounding State(s) and will have little control over the ability of areas under their jurisdiction to attain the air quality standards. In the event that such an area

fails to attain by the attainment date, additional flexibility for the Tribes will be needed to address the fairness issues created by transported nonattainment problems. Tribes have asked that we consider providing offset set-asides in order to address these issues. We request comment on whether emission offset set-asides, possibly generated by innovative measures to promote additional emissions reductions, are an appropriate method to help level the playing field for the Tribes in order to support economic development in Tribal areas. In any case, we believe that some provisions will need to be made for Tribal areas, because they will have limited ability, if any, to generate offsets on their own. We may also need to work with States to help provide the Tribes access to offsets from non-Tribal areas. Also, it is important to recognize that the NO<sub>x</sub> SIP Call does not provide for an emissions budget for Tribes. Therefore, we are asking for comments on how to provide a set-aside to provide fair access to development in these areas.

*P. How Will EPA Ensure That the 8-Hour Ozone Standard Will Be Implemented in a Way Which Allows an Optimal Mix of Controls for Ozone, PM<sub>2.5</sub> and Regional Haze?*

1. Could an Area's 8-Hour Ozone Strategy Affect Its PM<sub>2.5</sub> and/or Regional Haze Strategy?

Many of the areas that are violating either the 8-hour ozone or PM<sub>2.5</sub> NAAQS, may be violating both of these NAAQS. Thus, in many cases, States will have ozone and PM<sub>2.5</sub> nonattainment areas with overlapping boundaries. Requirements for regional haze apply to all areas. Each State is responsible for developing SIP revisions to meet all the requirements relevant to each nonattainment area for each pollutant as well as developing a regional haze plan. In some cases, ozone control measures may also be useful for a PM<sub>2.5</sub> control strategy or a regional haze plan. Similarly, controls for PM<sub>2.5</sub> may lead to reductions in ozone or regional haze. For example, considered in isolation, a metropolitan area's ozone strategy might be based on additional VOC emissions reductions; if the area needs NO<sub>x</sub> reductions for PM<sub>2.5</sub> attainment, however, an optimal approach might include a more complex ozone strategy using both NO<sub>x</sub> and VOC reductions. We believe integration of ozone and PM<sub>2.5</sub> attainment planning will reduce overall costs of meeting multiple air quality goals.

Many of the factors affecting concentrations of ozone also affect