

noted that the USEPA encourages the use of site-specific emissions data if data acceptable to the State and the USEPA are available. The commentor should present all available sampling data and a discussion of the sampling procedures to the State for review. It is the State and not the USEPA that must determine whether these data warrant a revision to the 1990 base year emissions inventory. As noted in the State's response, the State may have some concerns regarding the acceptability of the source-specific emission factors for the sinter plant windboxes.

Nonetheless, the State is encouraged to consider the data presented by the commentor, and, if appropriate, to revise the 1990 base year emissions inventory through a SIP revision request (the emission adjustments recommended by the commentor, if accepted by the State, would warrant a SIP revision). The rulemaking process that has been initiated by the State is the appropriate forum for resolving this issue and should be completed in a timeframe that minimizes the need for related SIP revisions in the State's reasonable further progress and demonstration of attainment SIP currently under development by the State.

The USEPA agrees with the State that the most appropriate time to have adjusted the emissions inventory was during the State's public review period. Requesting disapproval of the emissions inventory based on data collected more than one year after the public review period is needlessly disruptive to the State's SIP development process. USEPA agrees with the State that the State used the best available data at the time the emissions inventory was prepared. Therefore, the USEPA disagrees with the commentor that the emissions inventory should be disapproved now that new data may have come to light. The USEPA fully expects some base year emission inventories to be revised after-the-fact through follow-up quality assurance checks and input of improved emission factors. Many States are pursuing such emissions inventory improvements. The USEPA does not wish to discourage such quality assurance efforts through disapproval of emission inventory SIP revisions based on emission factor changes made after the adoption and submittal of the base year emission inventories.

With regard to the conversion of annual emissions to ozone season daily emissions, IDEM assumed for this source category that emissions occur uniformly throughout the year. Therefore, no distinction was made

between hourly emission rates within the summer months (the months assumed to be associated with high ozone concentrations) and those from other months. Given the lack of season-specific and day-specific data, the approach taken by the State is acceptable. The fewer hours of sinter plant operation during 1990 at the US Steel facility would logically have led to higher per hour emission rates when annual emissions were converted to daily emissions by dividing the annual emissions by the hours of operation. IDEM's conversion procedures are acceptable to the USEPA.

V. Final Rulemaking Action

The State of Indiana has met the requirements of the Act for the submittal of a base year ozone precursor emissions inventory. The USEPA approves Indiana's 1990 base year ozone precursor emissions inventory for Lake and Porter Counties. It is noted, however, that the State of Indiana will consider the issues raised by Bethlehem Steel Corporation, and may, dependent on the extent of the revisions needed in the emissions inventory, submit another base year emissions inventory SIP revision request in the future.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The SIP approvals under section 110 and subchapter I, part D, of the Act do not create any new requirements, but

simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (1976).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 6, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: December 23, 1994.

Valdas V. Adamkus,
Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart P—Indiana

2. Section 52.777 is amended by adding paragraph (j) to read as follows:

§ 52.777 Control strategy: Photochemical oxidants (hydrocarbons).

* * * * *

(j) The base year ozone precursor emission inventory requirement of section 182(a)(1) of the Clean Air Act, as amended in 1990, has been satisfied for Lake and Porter Counties, Indiana.

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