

## § 52.1670

## 40 CFR Ch. I (7–1–12 Edition)

(63) A revision to the New Mexico SIP approving a request for redesignation to attainment, a vehicle inspection and maintenance program, and the required maintenance plan for the Albuquerque/Bernalillo County CO nonattainment area, submitted by the Governor on May 11, 1995. The 1993 emissions inventory and projections were included in the maintenance plan.

(i) Incorporation by reference.

(A) A letter from the Governor of New Mexico to EPA dated April 14, 1995, in which the Governor requested redesignation to attainment based on the adopted Carbon Monoxide Redesignation Request and Maintenance Plan for Albuquerque/Bernalillo County New Mexico.

(B) Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 28, Motor Vehicle Inspection, as amended April 12, 1995 and effective on July 1, 1995.

(ii) Additional material. Carbon Monoxide Redesignation Request and Maintenance Plan for Albuquerque/Bernalillo County New Mexico, approved and adopted by the Air Quality Control Board on April 13, 1995.

(64)–(65) [Reserved]

(66) Recodified and revised regulations of the New Mexico Administrative Code submitted by the Governor on January 8, and July 18, 1996.

(i) Incorporation by reference.

(A) New Mexico Administrative Code, Title 20, Chapter 2, Parts 1 and 2, adopted by the New Mexico Environmental Improvement Board September 22, 1995, and filed with the State Records and Archives Center on September 27, 1995.

(B) New Mexico Administrative Code, Title 20, Chapter 2, Parts 3, 5, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 30, 31, 32, 33, 34, 40, 41, 60, 61, 72 (Subparts I, II and III; Subpart V, Sections 501 and 502), 73, 75, 79, and 80; adopted by the New Mexico Environmental Improvement Board on October 20, 1995, and filed with the State Records and Archives Center on October 30, 1995.

(C) Revised New Mexico Administrative Code, Title 20, Chapter 2, Part 3, Sections 109 and 111 and; Part 61, Section 111 and; repeal of Part 3, Section 112, adopted by the New Mexico Environmental Improvement Board Decem-

ber 8, 1995, and filed with the State Records and Archives Center on December 11, 1995.

(D) New Mexico State Records Center transmittals repealing Air Quality Control Regulations 705 and 706; adopted by the New Mexico Environmental Improvement Board December 8, 1995; and filed with the State Records and Archives Center on December 11, 1995.

(E) Revised New Mexico Administrative Code, Title 20, Chapter 2, Part 72, Section 103; adopted by the New Mexico Environmental Improvement Board on June 18, 1996, and filed with the State Records and Archives Center on June 19, 1996.

(ii) Additional material. None.

[37 FR 10881, May 31, 1972. Redesignated and amended at 63 FR 37495, July 13, 1998]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 52.1640, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### Subpart HH—New York

#### § 52.1670 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State Implementation Plan (SIP) for New York under section 110 of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, and 40 CFR part 51 to meet National Ambient Air Quality Standards.

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to January 1, 2011, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the FEDERAL REGISTER. Entries in paragraphs (c) and (d) of this section with an EPA approval date after January 1, 2011, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 2 certifies that the rules/regulations provided by the EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations,

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which have been approved as part of the SIP as of January 1, 2011.

(3) Copies of the materials incorporated by reference may be inspected at the Environmental Protection Agency, Region 2, Air Programs Branch, 290 Broadway, New York, New York 10007; the EPA, Air and Radiation Docket and Information Center, EPA Headquarters Library, Infoterra Room (Room Number 3334), EPA West Building, 1301 Constitution Ave., NW., Washington, DC 20460, and the National Ar-

chives and Records Administration. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566-1742. For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(c) *EPA approved regulations.*

**EPA-APPROVED NEW YORK STATE REGULATIONS**

New York State regulation	State effective date	Latest EPA approval date	Comments
Title 6: Part 200, General Provisions, Section 200.1.	3/5/09	11/17/10, 75 FR 70140	The word odor is removed from the Subpart 200.1(d) definition of "air contaminant or air pollutant." Redesignation of non-attainment areas to attainment areas (200.1(av)) does not relieve a source from compliance with previously applicable requirements as per letter of Nov. 13, 1981 from H. Hovey, NYSDEC. Changes in definitions are acceptable to EPA unless a previously approved definition is necessary for implementation of an existing SIP regulation. EPA is including the definition of "Federally enforceable" with the understanding that (1) the definition applies to provisions of a Title V permit that are correctly identified as Federally enforceable, and (2) a source accepts operating limits and conditions to lower its potential to emit to become a minor source, not to "avoid" applicable requirements.
Section 200.9, Table 1 (Part 231 references).	3/5/09	11/17/10, 75 FR 70140	EPA is approving reference documents that are not already Federally enforceable.
Sections 200.6, 200.7 and 200.9	2/25/00	4/22/08, 73 FR 21548	EPA is approving reference documents that are not already Federally enforceable.
Part 201, Permits and Certificates.	4/4/93	10/3/05, 70 FR 57511	This action removes subpart 201.5(e) from the State's Federally approved SIP.
Subpart 201-2.1(b)(21), Definitions.	3/5/09	11/17/10, 75 FR 70140	EPA is including the definition of "Major stationary source or major source or major facility" with the understanding that the definition applies only to provisions of part 231.
Subpart 201-7.1, General .....	7/7/96	10/3/05, 70 FR 57511	
Subpart 201-7.2, Emission Capping Using Synthetic Minor Permits.	7/7/96	10/3/05, 70 FR 57511	
Part 202, Emissions Testing, Sampling and Analytical Determinations.	3/24/79	11/12/81, 46 FR 55690	
Subpart 202-2, Emission Statements.	5/29/05	10/31/07, 72 FR 61530	Section 202-2.3(c)(9) requires facilities to report individual HAPs that may not be classified as criteria pollutants or precursors to assist the State in air quality planning needs. EPA will not take SIP-related enforcement action on these pollutants.
Part 204, NO <sub>x</sub> Budget Trading Program.	2/25/00	5/22/01, 66 FR 28063	Incorporates NO <sub>x</sub> SIP Call and NO <sub>x</sub> Budget Trading Program for 2003 and thereafter.
Part 205, Architectural and Industrial Maintenance (AIM) Coatings.	1/1/11	3/8/12, 77 FR 13974	
Part 207, Control Measures for an Air Pollution Episode.	2/22/79	11/12/81, 46 FR 55690	

EPA-APPROVED NEW YORK STATE REGULATIONS—Continued

New York State regulation	State effective date	Latest EPA approval date	Comments
Part 211, General Prohibitions ..	1/1/11	3/8/12, 77 FR 13974	Section 211.1 (previously numbered 211.2) is not part of the approved plan. (see 11/27/98, 63 FR 65559)
Part 212, General Process Emission Sources.	9/22/94	9/25/01, 66 FR 48961	
Part 213, Contaminant Emissions from Ferrous Jobbing Foundries.	5/1/72	9/22/72, 37 FR 19814	
Part 214, By-Product Coke Oven Batteries.	9/22/94	7/20/06, 71 FR 41163	
Part 215, Open Fires .....	6/16/72	9/22/72, 37 FR 19814	
Part 216, Iron and/or Steel Processes.	9/22/94	7/20/06, 71 FR 41163	
Part 217, Motor Vehicle Emissions.			
Subpart 217–1, Motor Vehicle Enhanced Inspection and Maintenance Program Requirements Until December 31, 2010.	12/5/10	2/28/12, 77 FR 11742	
Subpart 217–4, Inspection and Maintenance Program Audits Until December 31, 2010.	12/5/10	2/28/12, 77 FR 11742	
Subpart 217–6, Motor Vehicle Enhanced Inspection and Maintenance Program Requirements Beginning January 1, 2011.	12/5/10	2/28/12, 77 FR 11742	
Part 218, Emission Standards for Motor Vehicles and Motor Vehicle Engines.			EPA's approval of part 218 only applies to light-duty vehicles.
Subpart 218–1: Applicability and Definitions.	12/28/00	1/31/05, 70 FR 4773	
Subpart 218–2: Certification and Prohibitions.	12/28/00	1/31/05, 70 FR 4773	
Subpart 218–3: Fleet Average ..	12/28/00	1/31/05, 70 FR 4773	
Subpart 218–4: Zero Emissions Vehicle Sales Mandate.	5/28/92	1/6/95, 60 FR 2025	
Subpart 218–5: Testing .....	12/28/00	1/31/05, 70 FR 4773	
Subpart 218–6: Surveillance .....	12/28/00	1/31/05, 70 FR 4773	
Subpart 218–7: Aftermarket Parts.	12/28/00	1/31/05, 70 FR 4773	
Subpart 218–8: Severability .....	12/28/00	1/31/05, 70 FR 4773	
Part 219, Incinerators .....	5/1/72	9/22/72, 37 FR 19814	
Part 220, Portland Cement Plants.	3/14/73	11/12/81, 46 FR 55690	
Part 222, Incinerators—New York City, Nassau and Westchester Counties.	6/17/72	9/22/72, 37 FR 19814	
Part 223, Petroleum Refineries	8/9/84	7/19/85, 50 FR 29382	
Part 224, Sulfuric and Nitric Acid Plants.	5/10/84	7/19/85, 50 FR 29382	Variances adopted by the State pursuant to Part 224.6(b) become applicable only if approved by EPA as SIP revisions 7/19/85, 50 FR 29382.
Subpart 225–1, Fuel Composition and Use-Sulfur Limitations.	3/24/79	11/12/81, 46 FR 55690	Variances adopted by the State pursuant to §§ 225.2(b) and (c), 225.3, and 225.5(c) become applicable only if approved by EPA or SIP revisions (40 CFR 52.1675(e)).
Subpart 225–2, Fuel Composition and Use-Waste Fuel.	7/28/83	8/2/84, 49 FR 30936	
Part 225–3, Fuel Composition and Use—Gasoline.	11/4/01	9/8/05, 70 FR 53304	The Variance adopted by the State pursuant to section 225–3.5 becomes applicable only if approved by EPA as a SIP revision.
Part 226, Solvent Metal Cleaning Processes.	5/7/03	1/23/04, 69 FR 3240	

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EPA-APPROVED NEW YORK STATE REGULATIONS—Continued

New York State regulation	State effective date	Latest EPA approval date	Comments
Part 227, Stationary Combustion Installations [1972 version]/ section 227.2(b)(1).	5/1/72	9/22/72, 37 FR 19814	
Part 227, Stationary Combustion Installations.			Existing Part 227 is renumbered Subpart 227–1.
Subpart 227–1, Stationary Combustion Installations.	2/25/00	5/22/01, 66 FR 28063	Renumbered sections 227–1.2(a)(2), 227–1.4(a), and 227–1.4(d) continue to be disapproved according to 40 CFR 52.1678(d) and 52.1680(a). (New York repealed existing Part 227.5.)
Subpart 227–2, Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO <sub>x</sub> ).	2/11/04	1/13/05, 70 FR 2358	
Subpart 227–3, Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program.	3/5/99	5/22/01, 66 FR 28063	Approval of NO <sub>x</sub> Budget Trading Program for 1999, 2000, 2001 and 2002. NO <sub>x</sub> caps in the State during 2003 and thereafter established in Part 204.
Part 228, Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers.	9/30/10	3/8/12, 77 FR 13974	
Part 229, Petroleum and Volatile Organic Liquid Storage and Transfer.	4/4/93	12/23/97, 62 FR 67006	SIP revisions submitted in accordance with Section 229.3(g)(1) are effective only if approved by EPA.
Part 230, Gasoline Dispensing Sites and Transport Vehicles.	9/22/94	4/30/98, 63 FR 23668	
Part 231, New Source Review for New and Modified Facilities.	3/5/09	11/17/10, 75 FR 70140	Partial approval; no action taken on provisions that may require PSD permits for sources of greenhouse gas (GHG) emissions with emissions below the thresholds identified in EPA's final PSD and Title V GHG Tailoring Rule at 75 FR 31514, 31606 (June 3, 2010).
Part 232, Dry Cleaning .....	8/11/83	6/17/85, 50 FR 25079	EPA has not determined that §232.3(a) provides for reasonably available control technology.
Part 233, Pharmaceutical and Cosmetic Manufacturing Processes.	4/4/93	12/23/97, 62 FR 67006	SIP revisions submitted in accordance with Section 223.3(h)(1) are effective only if approved by EPA.
Part 234, Graphic Arts .....	7/8/10	3/8/12, 77 FR 13974	SIP revisions submitted in accordance with §234.3(f) are effective only if approved by EPA.
Part 235, Consumer Products ...	10/15/09	5/28/10, 75 FR 29897	
Part 236, Synthetic Organic Chemical Manufacturing Facility Component Leaks.	1/12/92	7/27/93, 58 FR 40059	Variances adopted by the State pursuant to Part 236.6(e)(3) become applicable only if approved by EPA as a SIP revision.
Part 239, Portable Fuel Container Spillage Control.	7/30/09	5/28/10, 75 FR 29897	The specific application of provisions associated with alternate test methods, variances and innovative products, must be submitted to EPA as SIP revisions.
Part 241, Asphalt Pavement and Asphalt Based Surface Coating.	1/1/11	3/8/12, 77 FR 13974	
Part 243, CAIR NO <sub>x</sub> Ozone Season Trading Program.	10/19/07	1/24/08, 73 FR 4112	
Part 244, CAIR NO <sub>x</sub> Annual Trading Program.	10/19/07	1/24/08, 73 FR 4112	
Part 245, CAIR SO <sub>2</sub> Trading Program.	10/19/07	1/24/08, 73 FR 4112	
Title 15: Part 79, Motor Vehicle Inspection Regulations. Sections 79.1–79.15, 79.17, 79.20, 79.21, 79.24, 79.25.	12/29/10	2/28/12, 77 FR 11742	

(d) EPA approved State source-specific requirements.

EPA-APPROVED NEW YORK SOURCE-SPECIFIC PROVISIONS

Name of source	Identifier/emission point	State effective/approval date	EPA approval date	Explanation
Dunlop Tire and Rubber Corporation.	Green tire spraying, bead dipping, and under tread and tread end cementing processes.	Consent Order [81-36, 9-0420]—8/19/81, Consent Order Amendment letters—1/29/82 and 3/3/82.	1/26/84, 49 FR 3436	Part 212 VOC RACT Compliance Plan.
Morton International Inc..	00027 .....	Permit—9/1/95 Special Permit Conditions letter—8/23/95.	9/23/97, 62 FR 49617	Part 227-2, NO <sub>x</sub> RACT determination.
University of Rochester.	00003 and 00005 .....	Permit—4/25/96 Special Permit Conditions letter—3/19/96 .....	9/23/97, 62 FR 49617	Part 227-2, NO <sub>x</sub> RACT determination.
Algonquin Gas Transmission Company.	..... R0100 .....	Special Conditions—9/23/91 .....	9/23/97, 62 FR 49617	Part 227-2, NO <sub>x</sub> RACT determination.
	R0200 .....	Permit Correction—8/8/96 .....		
	R0300 .....	Permit—9/23/91, Special Permit Conditions letter—3/18/96 .....		
	R0400 .....	Permit—9/23/91, Special Permit Conditions letter—3/18/96 .....		
Tenneco Gas Corporation's (also known as Tenneco Gas Pipeline Company and Tennessee Gas Pipeline Company).	.....	Permit—9/23/91, Special Permit Conditions letter—3/29/96, .....	7/21/03, 68 FR 42981	Part 227-2, NO <sub>x</sub> RACT determination.
Station 229 .....	0001A through 0006A	Permits—8/22/95 .....		
Station 245 .....	00001 through 00006	Special Permit Conditions letter—2/24/97.		
Station 254 .....	00001 through 00006	Permits—10/4/95 Special Permit Conditions letter—9/15/95 .....		
General Chemical Corporation.	0SN1A and 0SN1B ...	Permit conditions letter—12/16/97	7/1/04, 69 FR 39858	Part 212, NO <sub>x</sub> RACT determination. 6/23/05 letter informing NYDSEDEC that the approval will automatically convert to a disapproval.

(e) EPA approved nonregulatory and quasi-regulatory provisions.

EPA-APPROVED NEW YORK NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Action/SIP element	Applicable geographic or non-attainment area	New York submittal date	EPA approval date	Explanation
SIP revision for carbon monoxide concerning the oxyfuel program.	New York-Northern New Jersey-Long Island carbon monoxide nonattainment area.	8/30/99	4/19/00, 65 FR 20909	
Stage II gasoline vapor recovery comparability plan.	Upstate portions of New York State.	4/18/00	9/29/00, 65 FR 58364	
The 1990 base year emission inventory (Volatile organic compounds (VOC), Nitrogen oxides (NO <sub>x</sub> ) and Carbon monoxide (CO)).	Areas designated nonattainment for ozone since 1991 in New York State.	2/2/99	5/10/01, 66 FR 23851	

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**EPA-APPROVED NEW YORK NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued**

Action/SIP element	Applicable geographic or non-attainment area	New York submittal date	EPA approval date	Explanation
1996 and 1999 ozone projection year emission inventories.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	2/2/99	5/10/01, 66 FR 23851	
Photochemical assessment monitoring stations network.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	2/2/99	5/10/01, 66 FR 23851	
Enforceable commitments for ozone.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	2/2/99	5/10/01, 66 FR 23851	
15 Percent Rate of Progress Plan and the 9 Percent Reasonable Further Progress Plan for ozone.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	2/2/99	5/10/01, 66 FR 23851	
2002, 2005 and 2007 ozone projection year emission inventories.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	11/27/98	2/4/02, 67 FR 5194	
Reasonable Further Progress Plans for milestone years 2002, 2005 and 2007 for ozone.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	11/27/98	2/4/02, 67 FR 5194	
Contingency measures for ozone.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	11/27/98	2/4/02, 67 FR 5194	
Reasonably Available Control Measure Analysis for ozone.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	10/1/01	2/4/02, 67 FR 5194	
Attainment demonstration for ozone.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	11/27/98, supplemented on 4/15/99, and 4/18/00	2/4/02, 67 FR 5194	
Enforceable commitments for future actions associated with attainment of the 1-hour ozone national ambient air quality standard.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	4/18/00	2/4/02, 67 FR 5194	
SIP revision to the carbon monoxide maintenance plan.	Onondaga County .....	6/22/04	9/8/05, 70 FR 53304	
1990 and 2007 conformity emission budgets for ozone.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	1/29/03, amended on 6/29/03 and 1/18/05	9/13/05, 70 FR 53944	
Revised commitment to perform a mid-course review for ozone.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	1/29/03	9/13/05, 70 FR 53944	
New York reasonably available control technology (RACT) analysis for ozone.	Statewide and to the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT and the Poughkeepsie 8-hour ozone moderate non-attainment areas.	9/1/06, supplemented on 2/8/08 and 9/16/08	7/23/10, 75 FR 43069	
Reasonably available control measure (RACM) analysis for ozone.	New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT 8-hour ozone moderate non-attainment area.	2/8/08	7/23/10, 75 FR 43069	

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**EPA-APPROVED NEW YORK NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued**

Action/SIP element	Applicable geographic or non-attainment area	New York submittal date	EPA approval date	Explanation
2002 base year emissions inventory; 2008 projection year emissions inventories; 2008 motor vehicle emissions budgets used for planning purposes; 2008 ozone reasonable further progress (RFP) plan; and 2008 RFP Plan contingency measures.	New York portion of the New York-Northern New Jersey-Long Island 8-hour ozone nonattainment area.	2/8/2008 supplemented on 12/28/2009 and 1/26/2011	8/18/2011	
2002 base year emissions inventory.	Poughkeepsie 8-hour ozone moderate nonattainment area.	2/8/2008 supplemented on 12/28/2009 and 1/26/2011	8/18/2011	
2002 base year emissions inventory.	State-wide .....	2/8/2008 supplemented on 12/28/2009 and 1/26/2011	8/18/2011	

[76 FR 41707, July 15, 2011, as amended at 76 FR 51266, Aug. 19, 2011; 77 FR 11743, Feb. 28, 2012; 77 FR 13977, Mar. 8, 2012]

**§ 52.1671 Classification of regions.**

The New York plans were evaluated on the basis of the following classifications:

Air quality control region	Pollutant				
	Particulate matter	Sulfur oxides	Nitrogen dioxide	Carbon monoxide	Photochemical oxidants (hydrocarbons)
Niagara Frontier Intrastate .....	I	I	III	III	I
Champlain Valley Interstate .....	II	II	III	III	III
Central New York Intrastate .....	I	II	III	I	I
Genesee-Finger Lakes Intrastate .....	II	II	III	III	I
Hudson Valley Intrastate .....	I	II	III	III	III
Southern Tier East Intrastate .....	II	II	III	III	III
Southern Tier West Intrastate .....	II	II	III	III	III
New Jersey-New York-Connecticut Interstate .....	I	I	I	I	I

[37 FR 10882, May 31, 1972, as amended at 39 FR 16347, May 8, 1974]

**§ 52.1672 Extensions.**

Pursuant to section 186(a)(4) of the Clean Air Act, as amended in 1990, the Regional Administrator hereby extends for one year (until December 31, 1996) the attainment date for the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Carbon Monoxide nonattainment area.

[61 FR 56900, Nov. 5, 1996]

**§ 52.1673 Approval status.**

(a) With the exceptions set forth in this section, the Administrator ap-

proves the New York State Implementation Plan (SIP) for the attainment and maintenance of the national standards under section 110(a)(2) of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of Part D, Title I of the Clean Air Act, as amended in 1977. In addition, continued satisfaction of the requirements of Part D for the ozone element of the SIP depends on the adoption and submittal of requirements for reasonable available control technology (RACT) by January 1985 and adoption and submittal by each