

40 C.F.R. § 78.12

Standard of review.

(a) On appeal of a decision of the Administrator prior to which there was an opportunity for submission of public comments or objections:

(1) Except as provided under paragraph (a)(2) of this section, the petitioner shall have the burden of going forward and of persuasion to show that a finding of fact or conclusion of law underlying the decision is clearly erroneous or that an exercise of discretion or policy determination underlying the decision is arbitrary and capricious or otherwise warrants review; and

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