
40 C.F.R. § 63.94

Approval of State permit terms and conditions that substitute for a section 112 rule.

Under this section a State may seek approval of State permit terms and conditions to be implemented and enforced in lieu of specified existing and future Federal section 112 rules, emission standards, or requirements promulgated under section 112, for those affected sources permitted by the State under part 70 of this chapter. The State may not seek approval under this section for permit terms and conditions that implement and enforce part 68 requirements.

(a) *Up-front approval process.* (1) A State must submit a request that meets the requirements of paragraph (b) of this section. After receiving a complete request for approval of a State program under this section and making a preliminary determination of equivalence, the Administrator will seek public comment for 21 days through a Federal Register notice. The Administrator will require that comments be submitted concurrently to the State.

(2) If, after review of all public comments, and State responses to comments submitted to the Administrator, the Administrator finds that the criteria of paragraph (b) of this section and the criteria of § 63.91 are met, the Administrator will approve the State program. The approved program will be published in the Federal Register and incorporated directly or by reference in the appropriate subpart of part 63.

(3) If the Administrator finds that any of the criteria of paragraph (b) of this section or § 63.91 have not been met, the Administrator will partially approve or disapprove the State program. For any partial approvals or disapprovals, the Administrator will provide the State with the basis for the partial approval or disapproval and what action the State can take to make the programs approvable.

(4) Within 90 days of receiving a complete request for approval under this section, the Administrator will either approve, partially approve, or disapprove the State request.

(b) *Criteria for up-front approval.* Any request for program approval under this section shall meet all of the criteria of this paragraph and § 63.91 before approval. The State shall provide the Administrator with:

(1)

(i) To the extent possible, an identification of all specific sources in source categories listed pursuant to subsection 112(c) for which the State is seeking authority to implement and enforce alternative requirements under this section;

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