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RCRA/SUPERFUND HOTLINE SUMM

AUGUST 1990

I. SIGNIFICANT QUESTIONS AND RESOLVED ISSUES-AUGUST 1990

RCRA

1. Public Comment Periods for Permit Modifications

When submitting a Class III permit modification request, the permittee, per 40 CFR Section 270.42(c)(2), must hold a public meeting and provide the public with at least 60 days to comment on the request. According to Section 270.42(c)(6), "after the conclusion of the 60-day comment period, the Director must grant or deny the permit modification request according to the permit modification procedures of 40 CFR Part 124." According to Section 124.10(b)(1), the public must be provided with a 45-day comment period. Do these comment periods serve the same function? If so, could just one comment period suffice in lieu of the other?

The 60-day comment period in Section 270.42(c) and the comment period in Section 124.10(b) are separate and distinct because they are designed for two different purposes. The 60-day period allows comment on the permittee's request and assists the Director in deciding whether to prepare a draft modification or a tentative denial; the 45-day period allows comment on the Director's proposed action. The review periods must occur separately. The differences are summarized in the table below:

	WRITTEN INITIATED BY:	ORAL COMMENT COMMENTS ON:	FORUM:
60-DAY PERIOD	The permittee request	The permittee's conducted by the permittee	A public "meeting"
45-DAY PERIOD	The Director modification	The draft conducted by the	A public "hearing"

or tentative denial. Director *

* Not mandatory

The 60-day comment period is the first to occur and is initiated by the permittee. The permittee must hold a public meeting no fewer than 15 days after the meeting notice or no fewer than 15 days before the end of the comment period. After the conclusion of the 60-day comment period, the Director will issue a draft permit modification and allow the public 45 days to comment on the draft. The Director will hold a public hearing if requested.

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