

RCRA, SUPERFUND & EPCRA CALL CENTER MONTHLY REPORT

November 2003

1. Class 1 Permit Modification Time Frame

Pursuant to RCRA Subtitle C, an owner or operator of a permitted treatment, storage, and disposal facility (TSDF) must initiate a permit modification in accordance with 40 CFR Section 270.42 when there is a change to the permit. When a permittee is seeking a Class 1 modification, must the implementing agency issue a decision regarding the modification request within a specified time frame?

Most Class 1 permit modifications do not require prior Agency approval and therefore are effective immediately. If the Director finds reason, the Class 1 permit modification may be rejected; however, there is no set time frame for such an action. Additionally, when the permittee initiates a Class 1 permit modification that requires prior Agency approval, there is no set time frame within which the implementing agency must issue a decision regarding the modification. However, under Section 270.42(a)(3), the permittee may elect to follow the procedures in Section 270.42(b) for a Class 2 modification instead of a Class 1 modification. By electing to proceed with a Class 2 modification, the permittee is assured that an Agency decision will be made within the established time frames (53 FR 37912, 37915; September 28, 1988). Specifically, the implementing agency must either approve, deny, or determine that the request should be submitted instead as a Class 3 modification no later than 90 days after receipt of the request for modification. If the Director notifies the permittee of a 30-day extension for a decision, the decision should be made no later than 120 days after receipt of the request for modification (Section 270.42(b)(6)).

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