

Commenters who recommended extending the compliance deadlines echoed the Agency's view at the time of proposal that an extension is appropriate to address concerns that there is a shortage of PEs in some areas, to allow PEs (or their agents) to make visits to sometimes remote facilities, and for PEs to obtain the training necessary to certify Plans under the new amendments. In addition, many of these commenters agreed with EPA that an extension of the compliance deadlines in the rule would prevent a flood of individual extension requests going to the Regions pursuant to 40 CFR 112.3(f). However, commenters also identified a number of other reasons, such as the need to plan their budgets for capital expenditures and delays they would encounter at facilities affected by winter weather.

However, as noted above, a great number of these commenters argued for longer time extensions than the one year proposed to address the issues cited above. In addition, others argued for longer time frames, often citing reasons that are more specific to their individual facilities or industries. For example, many commenters, mostly electric utilities and cooperatives, suggested time extensions of between two and four years. These commenters stated that such additional time is needed because, among other things, much of their electrical equipment is located on property owned by others and that "delineating of responsibilities for Plan purposes will have the effect of slowing down the overall compliance deadlines."

Rule requirements during any extension period. Several commenters noted that although EPA extended the compliance deadlines in the rule, it did not delay the effective date of the rule itself. These commenters stated that they understood "this to mean that to the extent the July 2002 rule imposes new more stringent compliance obligations than did the old SPCC rule, the deadline for fulfillment of those obligations is extended under the interim final and proposed rule, to the same extent as the deadline for implementing amended Plans." These commenters asked EPA to confirm this understanding in the preamble to the final rule.

B. Response to Comments

Extension of Time in General: Nothing received in comments on the proposed rule has persuaded the Agency that its view at the time of proposal, that additional time for compliance is appropriate, was incorrect. As noted above, the vast

majority of commenters on the rule supported a one-year or longer extension, and their comments contain information that lends additional support for such an extension.

However, as noted above, one commenter, a PE, did express the view that additional time for compliance with the amendments is unnecessary. Specifically, this commenter wrote that the 60-day interim extension that the Agency promulgated on January 9, 2003 was "more than an adequate time extension for the affected facilities to prepare amendments to their SPCC Plans." The commenter based this position on the following: (1) That the SPCC amendments were published in the **Federal Register** seven months before the compliance date, (2) that the final amendments reduced the number of facilities required to have Plans, (3) the commenter's personal experience that the facilities with which it deals are either finished with amending their Plans or in the final stages of doing so, (4) that the SPCC amendments were specifically written not to require a "local PE" and thus a shortage was unlikely, and (5) the view that with the slowdown in the economy, personnel resources should be available to carry out the activities within the additional 60-day period.

The Agency was not persuaded by this comment. Specifically, the fact that seven months were already provided by the rule, that the rule as a whole reduced the number of facilities subject to the rule, and that there is a slowdown in the economy, do not, without additional information or analysis, overcome the evidence provided in the comments (and the Agency's experience at the time of the proposal) that additional time is necessary. In addition, although this PE's individual experience does not suggest a difficulty meeting the existing deadlines, the experience of a good number of other PEs (and those who need to hire PEs) who commented on the rule does indicate the need for extending the deadlines. With respect to the fact that the rule does not itself require the use of a local PE, at least one commenter did report complications, stating that "individual state engineering registration and licensing boards do not always allow out-of-state PEs to practice in such a manner, thus limiting even further the number of available PEs for plan certification." In any event, even if a facility is permitted to use a non-local PE in areas with local shortages, the Agency expects that doing so would

likely extend the PE certification process.³

Extension of Time for 18 months. Although the comments made it very clear to the Agency that an extension was warranted, no commenter made a compelling case for any particular time frame. In other words, no commenter provided a technical basis in support of the time frame it was advancing. As discussed above, commenters provided a great number of reasons for additional time, but very similar problems identified were often accompanied by widely varying suggestions as to the length of extension needed to address such problems.

The Agency has settled on an 18-month extension, which is six months greater than the one-year extension originally proposed. EPA believes this time frame better addresses concerns identified at proposal than the proposed one-year extension, and should address many of the other concerns raised in comments suggesting one year or longer time frames. For example, in addition to reducing the immediate demands on PEs, it provides an additional warm season to address sites affected by winter weather, and will provide additional time for facilities to budget for necessary capital expenditures. (In seeking an extension greater than a year, several commenters noted that many companies budget a year or more into the future for capital expenditures and thus need additional planning time to accommodate expenditures associated with complying with the amendments.) In situations where the extension does not provide enough relief for an individual facility, that facility may seek an extension pursuant to § 112.3(f), where applicable.⁴ It is EPA's belief, however, that the 18-month extension will provide enough relief to prevent the Agency from again being faced with the prospect of an overwhelming number of requests for individual extensions under 40 CFR 112.3(f).

Rule requirements during any extension period. The commenter requesting clarification of rule requirements during the extension period discussed above was correct that EPA did not extend the effective date of the July 2002 rule itself. Instead, the

³ The same commenter suggested that "a possible alternate action may be to have both the 'SPCC Plan amendment due date' and the 'fully implemented no later than date' as August 18, 2003." The Agency rejected this approach for the reasons described here and later in today's preamble.

⁴ For example, depending on site-specific circumstances, the commenters who may have trouble complying because their equipment subject to the amended rule is located on property owned by others may be able to obtain an individual extension.