test, the owner or operator establishes that the appliance's annual leak rate does not exceed 35 percent. If the equipment owner or operator establishes that the appliance's annual leak rate does not exceed 35 percent, the owner or operator would be required to notify EPA within 30 days of that determination and the owner or operator would no longer be subject to the obligation to retrofit or replace the appliance that arose as a consequence of the initial failure to repair the leak or leaks successfully. The determination of whether the appliance's annual leak rate exceeds 35 percent would be determined in accordance with parameters identified by the owner or operator in its notice to EPA regarding the failure of the initial dynamic verification test.

EPA proposed to clarify that for industrial process and commercial sources, leaks need to be repaired such that the leak rate is brought back to a level below the 35 percent annual rate. A parallel clarification for comfort-cooling and commercial sources also was proposed. Therefore, rather than requiring that "all" leaks be repaired, EPA proposed revising the requirements to reduce leaks to a rate below the acceptable thresholds. EPA would permit leaky appliances to operate as long as the leak rate does not exceed that amount.

In the NPRM, EPA stated that it may be reasonable to permit additional time beyond the one-year established by the current regulations for the retrofitting of certain industrial process refrigeration equipment. EPA believes there are specific concerns relating to the need for special design, engineering, ordering and installation difficulties for some industrial process refrigeration equipment. EPA proposed to allow more than one year to complete the retrofit of industrial process refrigeration equipment in certain circumstances. The NPRM describes scenarios that may justify more than one year to retrofit an appliance; however, EPA does not believe additional time is always necessary. Therefore, EPA intended to permit additional time only when the owners or operators of the industrial process refrigeration equipment can provide information detailing the need for additional time in accordance with the proposed requirements described

EPA proposed that additional time, to the extent reasonably necessary, would be allowed due to delays occasioned by the requirements of other applicable federal, state, or local regulations, or due to the unavailability of a suitable replacement refrigerant with a lower

ozone depletion potential. The suitability of a replacement refrigerant is discussed in the NPRM (60 FR 4000). The owner or operator of the facility would have to notify EPA within six months after the 30-day period following the discovery of an exceedance of the 35 percent leak rate. Records that would provide evidence that other regulations or the unavailability of a suitable alternative refrigerant prevent retrofit or replacement within one year must be submitted to EPA to allow EPA to determine that these provisions apply and assess the length of time necessary to complete the work. EPA proposed that it notify the owner or operator of its determination within 60 days of submittal. The limited recordkeeping requirements are discussed in the NPRM (60 FR 4000). EPA proposed that such records be maintained by the owner or operator and kept on-site.

EPA proposed that an additional oneyear period beyond the initial one-year retrofit period be allowed for industrial process refrigeration equipment if four criteria are met: (1) The new or retrofitted refrigeration system is custom-built (meaning if it or any of its critical components cannot be purchased and/or installed without being specifically designed), fabricated and/or assembled to satisfy a specific set of industrial process conditions; (2) the supplier of the system of one or more of its critical components has quoted a delivery time of more than 30 weeks from when the order is placed; (3) the owner or operator notifies EPA within six months of the expiration of the 30day period following the discovery of an exceedance of the 35 percent leak rate to identify the owner or operator, describe the appliance involved, explain why more than one year is needed, and demonstrate that the first two criteria are met; and (4) the owner or operator maintains records adequate to allow a determination that the criteria are met. The criteria are further discussed in the NPRM (60 FR 4000).

EPA proposed that if more than one additional year is needed, the owner may request to extend the deadline for completing all retrofit or replacement action. EPA proposed that such a request be submitted to EPA before the end of the ninth month of the additional year that was granted to retrofit, replace, or retire the appliance. The request would be required to include revisions to that information submitted for the first additional year as proposed under § 82.166(o). Unless EPA objects to the request within 30 days of receipt, it would be deemed approved. EPA stated that this extension would be granted

only in cases where the actual nature of the retrofit or replacement activities is such that the additional time beyond the one year is crucial. The submittal of revised information is discussed in the NPRM (60 FR 4002).

EPA proposed to allow owners or operators to evacuate the appliance to slightly above atmospheric pressure, specifically to a pressure not exceeding 5 psig, to perform oil changes. Reasons for this approach are described in the NPRM (60 FR 4002).

The NPRM stated that EPA would like to clarify that the Agency interprets the 35 percent leak rate in the regulations as not including emissions of purged refrigerant that are destroyed, if their destruction is accounted for and can be verified by records maintained by the owners or operators of the industrial process refrigeration equipment. If purged refrigerant is destroyed using one of the five destruction technologies approved by the Parties to the Montreal Protocol, EPA can consider that refrigerant to have been destroyed and therefore, not part of the leak rate for the system. A description of the methods for destroying refrigerant and the how industrial process refrigeration systems could measure purged refrigerants is contained in the NPRM (60 FR 4003).

In the NPRM (60 FR 4003), EPA described temporarily mothballing equipment. If a facility is temporarily mothballed, EPA believes it is appropriate to suspend the timerelevant repair and/or retrofit requirements while the facility is effectively inoperative. In the same subsection, EPA described how temporarily mothballing is not equivalent to having an appliance taken off-line or to an industrial process shutdown. EPA proposed that while temporarily mothballed, the timerelevant repair and/or retrofit requirements would be suspended.

ÉPA proposed that owners or operators of a federally-owned refrigerant appliance be able to submit a request for extensions parallel to those outlined for industrial process refrigeration equipment, based on the hindrance of federal procurement requirements. If additional time is granted, EPA proposed that testing and documentation should occur, parallel to those for industrial process refrigeration equipment. The reasons for this proposed extension are discussed in detail in the NPRM (60 FR 4004).

IV. Summary of Major Comments Received

During the public comment period EPA received fourteen sets of comments that are addressed in this action. In