addition, EPA received and considered additional comments submitted to the Agency after the 30-day public comment period ended. All comments considered in this final action are contained in Air Docket A–92–01 VIIID.

All the commenters agreed that EPA should revise the leak repair requirements. Most of the commenters agreed with the general paradigm EPA proposed for repairing leaks in industrial process refrigeration equipment. Commenters raised specific concerns regarding various aspects of the proposed rule.

EPA received comments concerning the inclusion of specific types of appliances in the definition of industrial process refrigeration equipment. One commenter was concerned with whether the economic impact of an industrial process shutdown of a nuclear power reactor used in the generation of electricity was considered by the Agency.

Many commenters were concerned with the use and definitions of static and dynamic tests. In particular, several commenters suggested that the tests should be described as "first verification test" and "follow-up verification test," thus avoiding any confusion stemming from the common associations of static and dynamic with a state of motion. Some commenters stated that dynamic tests in certain circumstances should be performed before the affected appliance is operating at steady-state.

A few commenters were concerned with the methods EPA proposed to determine the full charge of an appliance. These commenters believe that the fourth option described in the NPRM (60 FR 3996) should be considered an acceptable methodology.

Several commenters believe that EPA should broaden the proposed conditions under which mothballing an appliance would suspend the time-relevant leak repair requirements.

A few commenters suggested changes to the recordkeeping and reporting requirements.

EPA received several comments regarding the proposed requirements for federally-owned chillers. Some commenters supported EPA's proposal, some opposed it, and one commenter suggested that EPA re-propose the changes under a separate rulemaking.

EPA received comments on the requirement to exert best efforts to repair leaks. Commenters were concerned that since the settlement agreement between EPA and CMA was reached, the interpretation of best efforts and sound engineering judgment has changed. All the comments received by EPA are discussed in greater detail below.

V. Response to Comments

EPA received fourteen sets of comments during the comment period on the proposed changes to the leak repair requirements published January 19, 1995 (60 FR 3992). Individual comments are specifically addressed in this section.

A. Legal Authority

EPA requested comment on the legal authority under which EPA was proposing and today is promulgating revisions to the leak repair requirements. A few commenters addressed this issue and agreed with EPA's legal basis for proposing these changes.

B. Contracted Employees

Two commenters requested that EPA clarify that actual work to be performed on affected appliances may be provided by contracted personnel. One commenter stated that although the owner or operator remains responsible for compliance, the work need not be performed by the owner or operator. EPA agrees with these commenters. The Agency recognizes that often repair and maintenance services are performed under contractual arrangements. Moreover, contracted personnel will be acting as agents of the owner or operator with respect to performance of service and maintenance of the appliances. Therefore, the owner or operator remains responsible to ensure that compliance with the requirements promulgated under section 608 occurs.

C. Nuclear Power

One comment received by EPA discusses the consideration of the leak repair requirements specifically for generation of electricity by a nuclear power reactor. The commenter does not believe the NPRM takes into account the technological and economic factors specific to the operation of these facilities in the context of the statutory standard in section 608(a)(3)(A) of the Act. For example, the commenter states that the shutdown of a nuclear power reactor within 120 days of discovering that the leak rate exceeds 35 percent is costly. The commenter stated that planned outages are typically scheduled on an 18-month cycle.

EPA understands under this rule, that an industrial process shutdown will often occur without regard to the planned outages for nuclear power stations, as well as for other industrial process refrigeration equipment in order to repair leaks. During the settlement agreement negotiations, discussions were held considering the possibility of waiting for the next scheduled shutdown. However, since these scheduled shutdowns often do not occur frequently, it was determined that undertaking a separate industrial process shutdown would be necessary to limit the emissions of refrigerant. EPA does not believe that the owners or operators of nuclear power stations incur costs that are dissimilar to those incurred by the chemical, pharmaceutical, petrochemical, and manufacturing industries when an industrial process shutdown occurs. Other commenters from these fields expressed concerns about the costs associated with an industrial process shutdown, but agreed with EPA that such an undertaking would be necessary to limit releases of ozone-depleting substances.

Prior to this rulemaking it was unclear whether the use of chillers in the generation of electricity actually met the definition of industrial process refrigeration equipment. Therefore, it is true that EPA did not base the NPRM on any specific consideration of the nuclear power industry. However, EPA does not believe that the commenter has demonstrated how the generation of electricity from a nuclear power reactor would face technological or economic factors not experienced by other owners or operators of industrial process refrigeration equipment. Furthermore, today's action lessens the burden for all industrial process refrigeration equipment, regardless of its use. If significant distinctions exist between refrigeration appliances used in the generation of electricity and other refrigeration appliances, EPA may need to reconsider whether the use of appliances in the generation of electricity is truly consistent with industrial process refrigeration equipment. If not, these appliances would be subject to the 15 percent leak rate and all associated requirements.

D. Definition of Industrial Process Refrigeration Equipment and the Need for Separate Leak Repair Requirements

The NPRM stated that three main refrigeration sectors are affected by the leak repair provisions promulgated under section 608 of the Act: commercial refrigeration, comfortcooling, and industrial process refrigeration. While many different commercial refrigeration and comfortcooling appliances are similar in design and function, EPA received information from CMA illustrating the uniqueness of industrial process refrigeration equipment. Industrial process