EPA agrees that the expense of ozonedepleting refrigerants will influence the decisions made by many organizations. However, considering the size of the refrigerant charges for some of the appliances subject to the leak repair provisions, ensuring that appliances brought back on-line are no longer leaking above the threshold, is important. Also, often appliances may use an HCFC, which is not subject to federal tax. In the settlement agreement, EPA and CMA agreed to propose this verification approach. Since these tests are regularly performed to ensure that a leak has been repaired, EPA believes these requirements are not overly burdensome. Furthermore, EPA believes that performing such tests provides the owners or operators with a strong measure of insurance. Moreover, since EPA has proposed options other than retrofitting or retiring the leaky equipment, such as reducing other leak sources, EPA does not believe a retrofit or replacement decision would be based solely on one failed static or dynamic test. Therefore, EPA will require that the tests be performed.

EPA received several comments regarding the use of the terms "static" and "dynamic." Commenters stated that uses of the terms "first verification test" or "initial verification test" and "followup verification test" would be more appropriate. Among the reasons suggested for this change is a concern that the terms static and dynamic have commonly understood meanings. Static generally means a system is at rest and dynamic generally means a system is operating. One commenter stated that during the settlement discussions the terms were crafted to discuss repairs, using the widely understood meaning. However, later it was realized that industrial process refrigeration equipment that was not shut down during repairs was neglected. The terms were then broadened to mean a first verification and a second verification test. After discussions with employees, the commenter now believes that the broadened definitions would likely cause confusion. Another commenter agreed that while the broadened definition captures the situations faced by the owners or operators, the language would be confusing. Several commenters suggested that the terms "first" or "initial verification test" and "follow-up verification test" would be more accurate.

EPA agrees with these commenters. The definitions of static and dynamic were broadened to capture real world situations. Since the settlement agreement bound the Agency to a proposal that included those terms, EPA

did not consider the use of other language to describe the tests. However, EPA agrees that "initial verification test" and "follow-up verification test" more accurately describe the tests, particularly since often the same types of tests qualify as both static and dynamic, depending on when they are performed. EPA believes changing the language would further clarify that the state of motion is not necessarily a criterion. Therefore, through this action, EPA will replace the proposed terms "static" and "dynamic" with the terms "initial verification test" and "follow-up verification."

Commenters suggested that EPA streamline the definition of initial verification test (static verification test) by removing illogical or redundant statements. The commenters state that there is no need to say that the test will be performed before the appliance or portion of the appliance has reached operation at normal working conditions of temperature and pressure because it would not be possible for an appliance or portion of an appliance to do so without a full refrigerant charge. EPA understands the commenters' concerns. Clearly, without a full charge of refrigerant, normal working conditions of temperature and pressure cannot be reached. However, to limit the potential for misinterpretations, EPA would rather be overly explicit.

One commenter requested that EPA distinguish between the terms steadystate operating conditions, steady-state operating characteristics, normal working conditions and normal operating conditions. The commenter stated that in engineering terms, these terms are not always equivalent. For example, if the values of all the variables in a process (e.g. all temperatures, pressures, volumes, flow rates, etc.) do not change with time, except for possibly minor fluctuations, the process is said to be operating at steady state. However, if any of the process variables change with time, transient or unsteady-state operating is said to exist. Depending upon the industrial process that the industrial process refrigeration equipment is supporting, its normal operation in strict engineering terms may be characterized as steady-state or unsteady-state. The commenter therefore believes it is more appropriate when referencing the operation state of the refrigeration equipment, for purposes of indicating when either verification test should be conducted, for the Agency to adopt the terminology "normal operating characteristics and conditions." Furthermore, the commenter believes that normal

operating characteristics and conditions has an understood definition equivalent to how the NPRM defines and refers to steady-state operations.

While EPA received other comments supporting the use of the term steadystate, EPA agrees with the concerns regarding the potential for confusion. The use of the term steady-state in this context originated with the settlement agreement. While the proposed definition for steady-state appears acceptable to most of the affected industry, EPA is concerned that someone familiar with the engineering distinctions between steady-state and unsteady-state would be confused. Therefore, EPA believes it is appropriate to replace "steady-state" with "normal operating characteristics and conditions." EPA will not be revising the definition in any substantive manner; therefore, the definition itself will be consistent with the spirit of the settlement agreement.

Several commenters raised concerns on when a follow-up verification test is performed. The commenters are concerned that the NPRM does not properly consider occasions where a verification test at normal operating characteristics and conditions is impractical or less meaningful. Commenters stated that there are repair situations where the repair sites will not be accessible to perform a meaningful verification test after the industrial process refrigeration equipment is returned to normal operating characteristics and conditions. One example would be a verification test for leaks inside a heat exchanger. The tests can be performed while the exchanger is open. A test performed after the exchanger is reassembled would not be as meaningful. Other examples provided by the commenters include: compressor internals, locations that must be reinsulated prior to start-up, and locations in close proximity to dangerous hot equipment or moving parts where access is not possible after reassembly. EPA did discuss whether it would be appropriate to permit follow-up verification tests prior to returning to normal operating characteristics and conditions; however, EPA did not propose to allow these alternative tests. Commenters stated that since there are situations where the tests prior to a return to normal operating characteristics and conditions will be more meaningful and reliable, EPA should permit sound engineering/ professional judgment to be used to determine what the appropriate operational state of industrial process refrigeration equipment should be when the follow-up verification tests are