and verification testing requirements to the owners and operators of federallyowned commercial refrigeration appliances for three reasons. First, because the owners or operators were not part of the settlement agreement between EPA and CMA. Second, because the commenters believe that EPA incorrectly stated that minor aspects of this rulemaking affect federally-owned chillers. Finally, because the commenters believe that this rulemaking constitutes an additional burden and that further legal action may be taken by the owners or operators of federally-owned chillers.

EPA understands all the concerns submitted by the commenters. In the NPRM, EPA states that the Agency received information from the Department of Energy (DOE) indicating a need for the proposed extension. EPA discussed with DOE the proposed language, including the use of verification tests. DOE understood and agreed with the requirements. Comments received during the public comment period from DOE suggest clarifications to the proposed regulatory language. DOE is the only federal entity to submit comments specific to this requirement.² EPA believes that in most cases federal entities should be able to repair appliances within 30 days or retrofit/replace equipment within one year, and that only under limited circumstances will this extension apply to federally-owned appliances.

EPA did not receive any comments during the public comment period from state or local governments regarding this proposal. Also, EPA received no information regarding the need for extensions for state and local governments prior to issuing the NPRM. Since EPA often receives formal and informal comments from state and local entities, EPA can only conclude that state and local entities do not believe an extension is necessary. The only comments regarding such an extension for state and local entities came from private-sector organizations.

One commenter stated that since the federal procurement process is governed by federal regulations, a de facto exemption exists without EPA specifying an exemption. EPA disagrees with this commenter. EPA is today providing additional time based on compliance with other federal, state, and local regulations for industrial process refrigeration equipment. This provision is applicable for both private and publicly owned or operated industrial process refrigeration equipment. However, it is not applicable to for comfort-cooling or commercial appliances. An additional exemption for federally-owned chillers not used for industrial process refrigeration equipment is necessary. Without such a provision, additional time based on federal, state, and local regulations would not apply.

EPA understands that often large private-sector organizations may have complicated procurement requirements. However, private-sector organizations do not need to go through public notice and comment to amend procurement practices.

Private-sector organizations can effect changes in order to ensure compliance. EPA proposed this extension because federal government officials are bound to follow federal regulations regarding the purchasing. There are only limited circumstances for expediting a specific purchase or changing the procedures quickly. EPA recognizes that the federal government is addressing the needs to provide more flexibility for contract and procurement officers to expedite the purchasing of the most cost-effective services and supplies. These changes, however, have not yet alleviated all the hurdles faced by those procuring appliances subject to this rulemaking.

In the NPRM, EPA focused on the procurement side of the issue. Based on additional comments from DOE, EPA understands that, in reality, the concerns raised by DOE also address how funding is appropriated, as well as environmental and health concerns associated with specific appliances owned or operated by DOE.

EPA recognizes that most of the appliances DOE is concerned with are unique, even amongst the appliances owned or operated by the federal government. DOE believes that in most cases it will be able to comply with the 30-day and one-year requirement. However, appliances used in the production of nuclear weapons and appliances located in areas subject to radiological contamination must comply with a unique set of environmental and public safety activities. It may be necessary to confront specific radiological concerns prior to beginning the process of locating and repairing leaks.

In the NPRM, EPA stated that the Agency intended for this exception to only be used in limited cases. EPA continues to believe that an extension for federally-owned appliances is appropriate; however, EPA recognizes that the proposed extension was overly broad. For example, DOE uses hot cells

at a number of its facilities to process radioactive and radioactivelycontaminated materials for research laboratories and medical isotope production. Refrigeration appliances serving hot cells may be standard chillers that are used for safe operation by the maintenance of specific temperatures. Hot cells use shielding windows for viewing manipulator operations. These windows are filled with mineral oil or zinc bromide fluids, that also act as radiation shields. If temperatures rise, the window gaskets could leak, the shielding fluid levels could fall, and the hot cell contaminants might be released, thus, posing a potentially serious safety hazard to the operators. If a refrigeration appliance serving a hot cell fails or leaks excessively, it may take several weeks for the radioactive materials in the cell to be placed in a stable condition, such that the materials can be handled safely. The use of temporary cooling appliances in these circumstances is not a viable option due to nuclear safety requirements. Thus, similar to industrial process equipment, the hot cell operations must be shut down to minimize safety hazards, and such a shutdown may take several weeks to be accomplished. In these situations, repair work may not be able to be completed within 30 days, since that work must be performed under safe conditions. EPA believes that there are a limited number of appliances that are confronted with this or similar situations. Therefore, the extension of the 30-day repair requirement would be limited. In most cases, similar to where an industrial process shutdown is required, 120 days will permit for the safe shutdown of the hot cells and for repair work to occur.

EPA estimates that even where radiological contamination exists, extensions will be used only to a limited degree. Moreover, EPA does not believe it is appropriate to broaden this extension to appliances owned by state and local governments since EPA is not aware of any state or local government faced with an analogous scenario. Therefore, federally-owned commercial and comfort-cooling refrigeration appliances will be permitted 120 days for repairs to be completed if the appliance is operating in, or sustaining activities and located in, radiologically contaminated areas.

EPA continues to believe that federal procurement and appropriations requirements influence the ability of the federal government to retrofit/replace/ retire an appliance within one year. As stated above, while the federal government is attempting to streamline many procurement practices, the types

² Additional comments were received by the Tennessee Valley Authority concerning electricity generated by a nuclear power reactor, not the exemption for federally-owned chillers.