

carefully examine the applicability criteria contained in section 608 of the Clean Air Amendments of 1990 and 40 CFR part 82, subpart F, published on May 14, 1993 (59 FR 28660). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Refrigerant Recycling Regulations

Final regulations promulgated by the U.S. Environmental Protection Agency (EPA) under section 608 of the Clean Air Act Amendments of 1990 (the Act), and published on May 14, 1993 (58 FR 28660), established a recycling program for ozone-depleting refrigerants recovered during the maintenance, service, repair, and disposal of air-conditioning and refrigeration equipment. The ozone-depleting refrigerants recycling regulations are codified at 40 CFR part 82, subpart F. Section 608 of the Clean Air Act prohibits the knowing venting, release, or disposal into the environment of any class I or class II substance used as a refrigerant during the maintenance, service, repair, and disposal of appliances or industrial process refrigeration equipment. Together with this statutory prohibition, the refrigerant recycling regulations are intended to substantially reduce the emissions of ozone-depleting refrigerants. The refrigerant recycling regulations were amended in final regulations published on November 9, 1994 (59 FR 55912); March 17, 1995 (60 FR 14607); and August 8, 1995 (60 FR 40419).

As promulgated, the refrigerant recycling regulations established recovery/recycling equipment and reclamation certification requirements, developed a technician certification requirement, and established that persons servicing air-conditioning and refrigeration equipment observe certain service practices to reduce emissions. The regulations also require that ozone-depleting compounds contained in appliances be removed prior to disposal of the appliances, and that all air-conditioning and refrigeration equipment, except for small appliances, be provided with a servicing aperture to facilitate recovery of refrigerant. In addition, the regulations restrict the sale of ozone-depleting refrigerants and establish a leak repair requirement for appliances that normally hold a refrigerant charge of more than 50 pounds. Also, the refrigerant recycling regulations require that refrigerant recovered from an appliance but not returned to that appliance or another appliance with the same ownership, be reclaimed by an EPA certified reclaimer.

As promulgated at 58 FR 28712, 40 CFR 82.154(g) and (h) prohibit the sale or offer for sale of any class I or class II substance consisting of used refrigerant, unless it has been (1) reclaimed as defined at § 82.152(q) and (2) reclaimed by a person certified as a reclaimer in accordance with § 82.164. These prohibitions were effective until May 15, 1995. On March 17, 1995, EPA promulgated a final rule extending the effective date of § 82.154(g) and (h) until March 18, 1996, or until EPA could promulgate a rule to adopt new specifications for reclaimed refrigerants based on industry guidelines (60 FR 14610). On February 29, 1996, EPA promulgated a final rule extending the effective date of these recycling prohibitions until December 31, 1996, or until EPA completes a rulemaking to adopt revised specifications for reclaimed refrigerants based on industry guidelines (61 FR 7724). On December 27, 1996, EPA indefinitely extended the effective date of the reclaimed refrigerant specifications of § 82.154(g) and (h) until EPA could complete a rulemaking to adopt the revised specifications (61 FR 68508).

III. Proposed Revisions to the Refrigerant Recycling Regulations

On February 29, 1996, EPA issued a Notice of Proposed Rulemaking (NPRM) that proposed amendments to several aspects of the recycling program (61 FR 7858). The NPRM proposed to allow additional flexibility in situations where refrigerants are transferred between appliances with different ownership; to adopt a third-party certification program for reclaimers and laboratories; to amend the recordkeeping aspects of the technician certification program; and to clarify aspects of the sales restriction. In addition, EPA proposed changes for the testing of recovery/recycling equipment and proposed to adopt the 1995 version of the industry standard ARI Standard 740 (an earlier version of which had been previously adopted by EPA). Also, the proposal included clarifications regarding the distinction between major and minor repairs.

IV. Summary of Comments Received on the Notice of Proposed Rulemaking

EPA received comments from 39 respondents on the refrigerant recycling NPRM. In addition, EPA also received two non-adverse comments on the direct final rulemaking to extend the reclamation requirements that were published in that same issue of the **Federal Register** (61 FR 7724). EPA has addressed the comments and questions submitted by these respondents with the exception of comments related to the

three proposed items that the Agency will not address in today's final rule, namely the potential adoption of a more flexible method for cleaning refrigerants where the refrigerants will be transferred between appliances with different ownership; the potential adoption of a third-party certification program for reclaimers; and the potential adoption of a third-party certification program for laboratories.

The majority of commenters offered support for EPA's efforts, while expressing concern on a number of specific issues. One commenter expressed support for EPA's focus on the consumer by providing greater flexibility for technicians. Four commenters stated their approval for EPA's efforts to use the Industry Recycling Guide-2 (IRG-2) as the basis for the proposal; however, these commenters noted that certain elements of IRG-2 were omitted from the proposal and expressed concern for the potential of increased contamination in the refrigerant supply that could ultimately damage the environment. Several commenters did not believe that EPA had fully considered the impact of the proposal on industrial process refrigeration equipment or on large manufacturing facilities. A commenter representing the scrap metal recycling industry, specifically noted approval for EPA's efforts to reduce costs and burdens for the industry and believes that this action will encourage compliance with EPA refrigerant regulations. Commenters supported EPA's recognition of industry advances, equipment improvements, and continued advances in the options available to meet customers' needs, and specifically expressed support for EPA's efforts to update the refrigerant recovery/recycling equipment standards by adopting ARI Standard 740-1995. One commenter, who generally expressed approval for the proposed new certification programs for laboratories and refrigerant recovery/recycling equipment, expressed concern that some elements of the proposal may cause hardships for the refrigeration and air-conditioning industry.

Several commenters did not support portions of the NPRM. One commenter stated that EPA should not be in the business of consumer protection and believed that the Agency's proposed actions run counter to the goals of environmental protection. A couple of commenters were concerned that the comment period was too short and stated concerns regarding their ability to fully consider and address all the issues related to the proposed rulemaking during a thirty-day comment period.