

clarification of whether repairs are still considered non-major if they take more than 15 minutes and the opening is less than two inches and can be capped or isolated.

EPA is setting the 15 minute maximum in its revised definition of "major maintenance, service, or repair" as a means of differentiating between major and non-major activities, while not explicitly defining "non-major" or limiting the definition to low-pressure chillers. The designation of the maintenance, service, or repair as "major" establishes whether or not an exemption to the evacuation required practice is allowed under § 82.156(a). EPA is not establishing or suggesting a time limit for any particular maintenance, service, or repair activity on an appliance. However, maintenance, service, or repair involving the uncovering of a small opening of more than four square inches of flow area for more than 15 minutes will be considered "major," and the exemption to the evacuation required practice will not be allowed. This designation should not be interpreted as an EPA mandate on how much time is required to perform any specific maintenance, service, or repair. In addition, EPA is reiterating that the venting prohibition of the Act exempts "*de minimis*" releases associated with good faith attempts to recapture and recycle or safely dispose of class I and class II refrigerants. The circumstances under which releases may be considered *de minimis* are set forth at 40 CFR 82.154(a).

Two commenters stated that technicians should be allowed to hold low-pressure appliances at or below 0 psig, not exactly at 0 psig as the proposal requires. Two other commenters stated that EPA should not require non-major repairs to be performed at 0 psig for the entire appliance if isolation of the portion of the appliance requiring service, maintenance, or repair is possible.

The intent of the proposed rule was to minimize the risk of emission due to diffusion of refrigerant into the atmosphere and air into the system. EPA did not propose to lower the evacuation level for low-pressure appliances when evacuation of the appliance to the atmosphere is not to be performed as required by § 82.156(a)(2)(i)(B). Since the regulatory structure already allows for the evacuation of high- or very high-pressure appliances to no higher than 0 psig and at 0 psig before a low-pressure appliance is opened (§ 82.156(a)(2)(i)(A) and (B) respectively), EPA is rescinding the proposed definition of non-major repair for low-pressure chillers and has

revised the proposed definition of major repairs of low-pressure chillers without the condition that such repairs be performed at 0 psig for the entire appliance or the isolated portion of the appliance.

One commenter urged EPA to clarify that the chart of examples of major and non-major repairs contained in the preamble to the February 29, 1996, NPRM is not part of the rule and may not necessarily be correct.

EPA is clarifying that this chart was submitted by a commenter and was included in the proposal only to present a hypothetical classification of certain service procedures and repairs. The chart was included in the NPRM to provide a non-comprehensive list of examples of common repair functions that technicians routinely encounter. It was not intended to represent a definitive compilation and should not be relied upon for categorizing repairs as major or non-major.

One commenter claimed that EPA has no justification to impose stringent new restrictions on non-major repairs in the absence of a cost/benefit analysis and that the Agency's action seems to go against Executive Order 12866. Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB). Executive Order 12866 defines "significant" regulatory action as one that is likely to lead to a rule that may: (1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It was determined by OMB and EPA that the proposal to amend the final rule was not a "significant regulatory action" under the terms of Executive Order 12866. EPA submitted this final rule to OMB. OMB determined that this rule is acceptable and did not recommend any changes.

In response to commenters' issues discussed above, EPA is rescinding the proposed definitions of "major" and

"non-major repair of low-pressure chillers," while revising the definition of "major maintenance, service, or repair" based on the comments received in response to the NPRM. Major maintenance, service, or repair means any maintenance, service, or repair that involves the removal of any or all of the following appliance components: compressor, condenser, evaporator, or auxiliary heat exchange coil or any maintenance, service; or repair that involves uncovering an opening of more than four (4) square inches of "flow area" for more than 15 minutes. Non-major maintenance, service, or repair is considered, but not defined at § 82.152, as any such action that does not fall within the definition of major maintenance, service, or repair.

H. Definition of Small Appliances

As discussed in the NPRM, EPA proposed a definition for small appliances prior to the May 14, 1993, rulemaking that included air-conditioning or refrigeration equipment containing less than one pound of refrigerant charge during normal operation. EPA received a number of comments on that proposal stating that the definition was too restrictive. In response, in the May 14, 1993, rule EPA expanded the definition to a more extensive list of products that were fully manufactured, charged, and hermetically sealed in a factory with five pounds or less of refrigerant. After the promulgation of the final rule, EPA received requests that the Agency expand the definition of small appliance to include units that met the criteria for small appliance but were not specifically listed in the definition. In response to these requests, EPA proposed in the NPRM to add appliances such as refrigerators and freezers that are built for medical or industrial research, as well as those used for commercial purposes, and are hermetically sealed at the factory and contain less than five (5) pounds of charge, to the definition of small appliance. In addition, EPA proposed to make the revised list of small appliances illustrative rather than restrictive in order to include in the definition appliances that meet the criteria but are not specifically listed.

EPA received comments that the proposed definition of "small appliance" would make the evacuation requirements more restrictive for some medical small appliances that consist of cascade refrigeration systems utilizing very high-pressure refrigerants. The commenters believed that the more stringent requirements would lead to increased operational costs.