specific testing requirements, and cooling areas containing a bank of computers to ensure a controlled environment. Another commenter stated that the definition should specify that appliances used for regulating temperatures in the control panel buildings should also be considered industrial process. The commenter believes that this is an integral part of the process and that since these appliances are vital to the proper functioning of the instruments in the control panel they do not constitute "comfort-cooling." While EPA understands that these cooling appliances are designed to meet specific cooling needs and fit in specific settings, these appliances do not meet the definition of industrial process refrigeration. EPA does not believe it is appropriate to expand the definition of industrial process refrigeration equipment to include specialized comfort-cooling appliances. If appropriate in the future, EPA could consider creating a separate category of specialized comfort-cooling appliances and/or specialized commercial appliances and permitting additional time to repair leaks. However, at this time EPA does not believe this is necessary. If EPA receives compelling information, then EPA would consider proceeding with appropriate notice and comment

Amending the requirements to create new sub-sectors for appliances not considered in the NPRM, particularly where such determinations would likely have wide-ranging consequences where proper notice has not been given, would be inappropriate as part of today's final action. Therefore, EPA will not expand the definition of industrial process refrigeration equipment to include specialized comfort-cooling or specialized commercial appliances. EPA may reconsider this issue through proper notice and comment procedures, at a later date.

EPA received several comments regarding the amount of refrigerant contained in appliances subject to the leak repair requirements. Commenters asked that EPA clarify that leak repair is required only for appliances that normally contain more than 50 pounds of refrigerant. On August 19, 1994 (59 FR 42953), EPA addressed this concern. The notice states that "although EPA did not explicitly restrict the scope of its leak repair requirement for commercial and industrial process refrigeration to equipment containing more than 50 pounds of refrigerant, EPA intended this requirement (§82.156(i)) to cover only equipment containing at least 50 pounds" (59 FR 42953). Accordingly,

EPA amended § 82.156(i) to specify the 50-pound cut-off (59 FR 42957). Inadvertently, EPA neglected to carry over that amended language in the January 19, 1995 NPRM. Therefore, through this action, EPA will amend the proposed requirements of § 82.156(i) to specify the 50-pound cut-off.

One commenter requests that EPA clarify that 50 pounds refers to the refrigerant in one refrigerant circuit. The commenter states that where two separate, wholly independent refrigeration circuits that are not interconnected, each having a normal refrigerant capacity of no more than 50 pounds, the leak repair provisions should not apply. EPA agrees with this commenter. Through this action, EPA would like to clarify that if the refrigerant circuits do not interconnect, and if each wholly independent circuit has a capacity of no more than 50 pounds of refrigerant, the leak repair provisions promulgated under §82.156(i) do not apply. However, if the refrigerant circuits are connected, and the combined circuits have a normal capacity of more than 50 pounds of refrigerant, the leak repair provisions do apply.

ÉPĂ received several comments regarding appliances used as both industrial process refrigeration equipment and comfort-cooling. The commenters were concerned with whether they need to use the 15 percent leak rate or the 35 percent leak rate under these circumstances. One example would be a chiller used directly in the generation of electricity and used to cool the control room. EPA believes that where 50 percent or more of an appliance's capacity is being used as industrial process refrigeration equipment, that appliance should be treated as industrial process refrigeration equipment and therefore subject to the 35 leak rate. Where less than 50 percent of an appliance's capacity is being used as industrial process refrigeration equipment, then the appliance will not be considered industrial process refrigeration equipment and will therefore be subject to the 15 percent leak rate. EPA believes this demonstrates an equitable approach and is consistent with determinations made by the Agency's Office of Compliance.1

EPA received one comment regarding the definition of on-site. The commenter believes EPA should specify that on-site means within a contiguous geographic area, under common ownership or control, that includes the location of the appliance. For the purposes of these regulations, EPA agrees with this interpretation of the term on-site.

## E. Repairing Appliances

## 1. Repair Attempts

EPA received several comments seeking clarification concerning how EPA will interpret the first repair attempt. Commenters stated that EPA should clarify that repairs can be iterative and therefore an owner or operator should be allowed to make as many repair attempts within the initial 30-day or 120-day timeframe as possible, as long as the results of conducting the verification tests indicate that the repairs were successful. One commenter explained that repairs may be checked several times before being considered complete. The commenter feared that there may be confusion that one unsuccessful attempt to tighten a bolt or replace a gasket might trigger the requirements as when a dynamic test fails.

EPA agrees with these concerns. EPA believes that during the initial 30-day or 120-day repair time, all attempts should be made to repair the leaks. Therefore, through this action EPA will replace the proposed language "first attempt" with "initial repair efforts," thus including all the efforts made during the initial 30 or 120 days.

EPA also received comments concerning the interpretation of "second attempt" to repair leaks. The commenters are concerned that second attempt implies a singular event rather than a series of events to repair a leak within a finite period of time. One commenter suggested that "efforts" be used instead. The commenter believes a limited timeframe instead of a limited event should be acceptable. EPA received comments indicating that the Agency should modify the rule to include a timeframe for completing the second attempt to repair leaks, particularly since a timeframe was included in the settlement agreement.

EPA agrees with the comments. A timeframe of 30 days (or 120 days in the case of an industrial process shutdown) was specified in the settlement agreement and inadvertently not included in the NPRM under §82.156(i)(3)(iv). As discussed above in reference to a first repair attempt, EPA understands that repairs may be iterative and that a singular effort should not be described. Another comment suggested EPA use the language, "any subsequent repair attempt." EPA does not believe that this language is appropriate because it is too open-ended and could potentially cause

<sup>&</sup>lt;sup>1</sup> Applicability Determination #51 made under the § 608 rulemakings.