the requirements and policies of title VI of the Clean Air Act, 42 U.S.C. 7671–7671g. Each such regulation shall provide, at a minimum, the following:

(1) That in place of class I or class II substances, or of products made with or containing such substances, safe alternatives identified under 42 U.S.C. 7671k (or products made with or containing such alternatives) shall be substituted to the maximum extent practicable. Substitution is not required for class II substances identified as safe alternatives under 42 U.S.C. 7671k, or for products made with or containing such substances, and such substances may be used as substitutes for other class I or class II substances.

(2) That, consistent with the phase-out schedules for ozone-depleting substances, no purchases shall be made of class II substances, or products containing class II substances, for the purpose of any use prohibited under 42 U.S.C. 7671d(c);

(3) That all active or new contracts involving the performance of any service or activity subject to 42 U.S.C. 7671g or 7671h or regulations promulgated thereunder include, or be modified to include, a condition requiring the contractor to ensure compliance with all requirements of those sections and regulations;

(4) That no purchases shall be made of products whose sale is prohibited under 42 U.S.C. 7671h, except when they will be used by persons certified under section 609 to service vehicles, and no purchase shall be made of nonessential products as defined under 42 U.S.C. 7671i;

(5) That proper labeling under 42 U.S.C. 7671j shall be a specification for the purchase of any product subject to that section.

(b) For agencies subject to the Federal Acquisition Regulation, 48 CFR part 1, amendment of the FAR, consistent with this subpart, shall satisfy the requirement of this section.

§ 82.86 Reporting requirements.

(a) No later than one year after October 22, 1993, each agency, department, and instrumentality of the United States shall certify to the Office of Management and Budget that its procurement regulations have been amended in accordance with this section.

(b) Certification by the General Services Administration that the Federal Acquisition Regulation has been amended in accordance with this section shall constitute adequate certification for purposes of all agencies subject to the Federal Acquisition Regulation.

Subpart E—The Labeling of Products Using Ozone-Depleting Substances

SOURCE: 60 FR 4020, Jan. 19, 1995, unless otherwise noted.

§ 82.100 Purpose.

The purpose of this subpart is to require warning statements on containers of, and products containing or manufactured with, certain ozone-depleting substances, pursuant to section 611 of the Clean Air Act, as amended.

§ 82.102 Applicability.

(a) In the case of substances designated as class I or class II substances as of February 11, 1993, the applicable date of the requirements in this paragraph (a) is May 15, 1993. In the case of any substance designated as a class I or class II substance after February 11, 1993, the applicable date of the requirements in this paragraph (a) is one year after the designation of such substance as a class I or class II substance unless otherwise specified in the designation. On the applicable date indicated in this paragraph (a), the requirements of this subpart shall apply to the following containers and products except as exempted under paragraph (c) of this section:

(1) All containers in which a class I or class II substance is stored or transported.

(2) All products containing a class I substance.

(3) All products directly manufactured with a process that uses a class I substance, unless otherwise exempted by this subpart or, unless the Administrator determines for a particular product that there are no substitute products or manufacturing processes for such product that do not rely on the

use of a class I substance, that reduce overall risk to human health and the environment, and that are currently or potentially available. If the Administrator makes such a determination for a particular product, then the requirements of this subpart are effective for such product no later than January 1, 2015.

(b) Applicable January 1, 2015 in any case, or one year after any determination between May 15, 1993 and January 1, 2015, by the Administrator for a particular product that there are substitute products or manufacturing processes for such product that do not rely on the use of a class I or class II substance, that reduce the overall risk to human health and the environment, and that are currently or potentially available, the requirements of this subpart shall apply to the following:

(1) All products containing a class II substance.

(2) All products manufactured with a process that uses a class II substance.

(c) The requirements of this subpart shall not apply to products manufactured prior to May 15, 1993, provided that the manufacturer submits documentation to EPA upon request showing that the product was manufactured prior to that date.

§ 82.104 Definitions.

(a) *Class I substance* means any substance designated as class I in 40 CFR part 82, appendix A to subpart A, including chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform and any other substance so designated by the Agency at a later date.

(b) *Class II substance* means any substance designated as class II in 40 CFR part 82, appendix A to subpart A, including hydrochlorofluorocarbons and any other substance so designated by the Agency at a later date.

(c) *Completely destroy* means to cause the destruction of a controlled substance by one of the five destruction processes approved by the Parties at a demonstrable destruction efficiency of 98 percent or more or a greater destruction efficiency if required under other applicable federal regulations.

(d) *Consumer* means a commercial or non-commercial purchaser of a product or container that has been introduced into interstate commerce.

(e) *Container* means the immediate vessel in which a controlled substance is stored or transported.

(f) *Container containing* means a container that physically holds a controlled substance within its structure that is intended to be transferred to another container, vessel or piece of equipment in order to realize its intended use.

(g) *Controlled substance* means a class I or class II ozone-depleting substance.

(h) *Destruction means* the expiration of a controlled substance, that does not result in a commercially useful end product using one of the following controlled processes in a manner that complies at a minimum with the ''Code of Good Housekeeping'' of Chapter 5.5 of the United Nations Environment Programme (UNEP) report entitled, *Ad-Hoc Technical Advisory Committee on ODS Destruction Technologies*, as well as the whole of Chapter 5 from that report, or with more stringent requirements as applicable. The report is available from the Environmental Protection Agency, Public Docket A–91–60, 401 M Street, SW., Washington, DC 20460 The controlled processes are:

(1) Liquid injection incineration;

(2) Reactor cracking;

(3) Gaseous/fume oxidation;

(4) Rotary kiln incineration; or

(5) Cement kiln.

(i) *Distributor* means a person to whom a product is delivered or sold for purposes of subsequent resale, delivery or export.

(j) *Export* means the transport of virgin, used, or recycled class I or class II substances or products manufactured or containing class I or class II substances from inside the United States or its territories to persons outside the United States or its territories, excluding United States military bases and ships for on-board use.

(k) *Exporter* means the person who contracts to sell class I or class II substances or products manufactured with or containing class I or class II substances for export or transfers such substances or products to his affiliate in another country.

(l) *Import* means to land on, bring into, or introduce into, or attempt to

land on, bring into, or introduce into any place subject to the jurisdiction of the United States whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States, with the exception of temporary off-loading of products manufactured with or containers containing class I or class II substances from a ship are used for servicing of that ship.

(m) *Importer* means any person who imports a controlled substance, a product containing a controlled substance, a product manufactured with a controlled substance, or any other chemical substance (including a chemical substance shipped as part of a mixture or article), into the United States. ''Importer'' includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his or her behalf. The term also includes, as appropriate:

(1) The consignee;

(2) The importer of record listed on U.S. Customs Service forms for the import;

(3) The actual owner if an actual owner's declaration and superseding bond has been filed; or

(4) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred.

(n) *Interstate commerce* means the distribution or transportation of any product between one state, territory, possession or the District of Columbia, and another state, territory, possession or the District of Columbia, or the sale, use or manufacture of any product in more than one state, territory, possession or District of Columbia. The entry points for which a product is introduced into interstate commerce are the release of a product from the facility in which the product was manufactured, the entry into a warehouse from which the domestic manufacturer releases the product for sale or distribution, and at the site of United States Customs clearance.

(o) *Manufactured with a controlled substance* means that the manufacturer of the product itself used a controlled substance directly in the product's manufacturing, but the product itself does not contain more than trace quantities of the controlled substance at the point of introduction into interstate commerce. The following situations are excluded from the meaning of the phrase ''manufactured with'' a controlled substance:

(1) Where a product has not had physical contact with the controlled substance;

(2) Where the manufacturing equipment or the product has had physical contact with a controlled substance in an intermittent manner, not as a routine part of the direct manufacturing process;

(3) Where the controlled substance has been transformed, except for trace quantities; or

(4) Where the controlled substance has been completely destroyed.

(p) *Potentially available* means that adequate information exists to make a determination that the substitute is technologically feasible, environmentally acceptable and economically viable.

(q) *Principal display panel (PDP)* means the entire portion of the surface of a product, container or its outer packaging that is most likely to be displayed, shown, presented, or examined under customary conditions of retail sale. The area of the PDP is not limited to the portion of the surface covered with existing labeling; rather it includes the entire surface, excluding flanges, shoulders, handles, or necks.

(r) *Product* means an item or category of items manufactured from raw or recycled materials, or other products, which is used to perform a function or task.

(s) *Product containing* means a product including, but not limited to, containers, vessels, or pieces of equipment, that physically holds a controlled substance at the point of sale to the ultimate consumer which remains within the product.

(t) *Promotional printed material* means any informational or advertising material (including, but not limited to, written advertisements, brochures, circulars, desk references and fact sheets) that is prepared by the manufacturer for display or promotion concerning a product or container, and that does not

accompany the product to the consumer.

(u) *Retailer* means a person to whom a product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to consumers who buy such product for purposes other than resale.

(v) *Spare parts* means those parts that are supplied by a manufacturer to another manufacturer, distributor, or retailer, for purposes of replacing similar parts with such parts in the repair of a product.

(w) *Supplemental printed material* means any informational material (including, but not limited to, package inserts, fact sheets, invoices, material safety data sheets, procurement and specification sheets, or other material) which accompanies a product or container to the consumer at the time of purchase.

(x) *Transform* means to use and entirely consume a class I or class II substance, except for trace quantities, by changing it into one or more substances not subject to this subpart in the manufacturing process of a product or chemical.

(y) *Type size* means the actual height of the printed image of each capital letter as it appears on a label.

(z) *Ultimate consumer* means the first commercial or non-commercial purchaser of a container or product that is not intended for re-introduction into interstate commerce as a final product or as part of another product.

(aa) *Warning label* means the warning statement required by section 611 of the Act. The term warning statement shall be synonymous with warning label for purposes of this subpart.

(bb) *Waste* means, for purposes of this subpart, items or substances that are discarded with the intent that such items or substances will serve no further useful purpose.

(cc) *Wholesaler* means a person to whom a product is delivered or sold, if such delivery or sale is for purposes of sale or distribution to retailers who buy such product for purposes of resale.

§ 82.106 Warning statement requirements.

(a) *Required warning statements.* Unless otherwise exempted by this subpart, each container or product identified in § 82.102 (a) or (b) shall bear the following warning statement, meeting the requirements of this subpart for placement and form:

> WARNING: Contains [or Manufactured with, if applicable] [*insert name of substance*], a substance which harms public health and environment by destroying ozone in the upper atmosphere.

(b) *Exemptions from warning label requirement.* The following products need not bear a warning label:

(1) Products containing trace quantities of a controlled substance remaining as a residue or impurity due to a chemical reaction, and where the controlled substance serves no useful purpose in or for the product itself. However, if such product was manufactured using the controlled substance, the product is required to be labeled as a ''product manufactured with'' the controlled substance, unless otherwise exempted;

(2) Containers containing a controlled substance in which trace quantities of that controlled substance remain as a residue or impurity;

(3) Waste containing controlled substances or blends of controlled substances bound for discard;

(4) Products manufactured using methyl chloroform or CFC–113 by persons who can demonstrate and certify a 95% reduction in overall usage from their 1990 calendar year usage of methyl chloroform or CFC–113 as solvents during a twelve (12) month period ending within sixty (60) days of such certification or during the most recently completed calendar year. In calculating such reduction, persons may subtract from quantities used those quantities for which they possess accessible data that establishes the amount of methyl chloroform or CFC–113 transformed. Such subtraction must be performed for both the applicable twelve month period and the 1990 calendar year. If at any time future usage exceeds the 95% reduction, all products manufactured with methyl chloroform or CFC–113 as solvents by that person must be labeled immediately. No person may qualify for this exemption after May 15, 1994;

(5) Products intended only for export outside of the United States shall not

be considered ''products introduced into interstate commerce'' provided such products are clearly designated as intended for export only;

(6) Products that are otherwise not subject to the requirements of this subpart that are being repaired, using a process that uses a controlled substance.

(7) Products, processes, or substitute chemicals undergoing research and development, by which a controlled substance is used. Such products must be labeled when they are introduced into interstate commerce.

(c) *Interference with other required labeling information.* The warning statement shall not interfere with, detract from, or mar any labeling information required on the labeling by federal or state law.

§ 82.108 Placement of warning statement.

The warning statement shall be placed so as to satisfy the requirement of the Act that the warning statement be ''clearly legible and conspicuous.'' The warning statement is clearly legible and conspicuous if it appears with such prominence and conspicuousness as to render it likely to be read and understood by consumers under normal conditions of purchase. Such placement includes, but is not limited to, the following:

(a) *Display panel placement.* For any affected product or container that has a display panel that is normally viewed by the purchaser at the time of the purchase, the warning statement described in § 82.106 may appear on any such display panel of the affected product or container such that it is ''clearly legible and conspicuous'' at the time of the purchase. If the warning statement appears on the principal display panel or outer packaging of any such affected product or container, the warning statement shall qualify as ''clearly legible and conspicuous,'' as long as the label also fulfills all other requirements of this subpart and is not obscured by any outer packaging, as required by paragraph (b) of this section. The warning statement need not appear on such display panel if either:

(1) The warning statement appears on the outer packaging of the product or container, consistent with paragraph (b) of this section, and is clearly legible and conspicuous; or

(2) The warning statement is placed in a manner consistent with paragraph (c) of this section.

(b) *Outer packaging.* If the product or container is normally packaged, wrapped, or otherwise covered when viewed by the purchaser at the time of the purchase the warning statement described in § 82.106 shall appear on any outer packaging, wrapping or other covering used in the retail display of the product or container, such that the warning statement is clearly legible and conspicuous at the time of the purchase. If the outer packaging has a display panel that is normally viewed by the purchaser at the time of the purchase, the warning statement shall appear on such display panel. If the warning statement so appears on such product's or container's outer packaging, it need not appear on the surface of the product or container, as long as the statement also fulfills all other requirements of this subpart. The warning statement need not appear on such outer packaging if either:

(1) The warning statement appears on the surface of the product or container, consistent with paragraph (a) of this section, and is clearly legible and conspicuous through any outer packaging, wrapping or other covering used in display; or

(2) The warning statement is placed in a manner consistent with paragraph (c) of this section.

(c) *Alternative placement.* The warning statement may be placed on a hang tag, tape, card, sticker, invoice, bill of lading, supplemental printed material, or similar overlabeling that is securely attached to the container, product, outer packaging or display case, or accompanies the product containing or manufactured with a controlled substance or a container containing class I or class II substances through its sale to the consumer or ultimate consumer. For prescription medical products that have been found to be essential for patient health by the Food and Drug Administration, the warning statement may be placed in supplemental printed material intended to be read by the prescribing physician, as long as the

following statement is placed on the product, its packaging, or supplemental printed material intended to be read by the patient: ''This product contains [insert name of substance], a substance which harms the environment by depleting ozone in the upper atmosphere.'' In any case, the warning statement must be clearly legible and conspicuous at the time of the purchase.

(d) *Products not viewed by the purchaser at the time of purchase.* Where the purchaser of a product cannot view a product, its packaging or alternative labeling such that the warning statement is clearly legible and conspicuous at the time of purchase, as specified under paragraphs (a), (b), or (c) of this section, the warning statement may be placed in the following manner:

(1) Where promotional printed material is prepared for display or distribution, the warning statement may be placed on such promotional printed material such that it is clearly legible and conspicuous at the time of purchase; or

(2) The warning statement may be placed on the product, on its outer packaging, or on alternative labeling, consistent with paragraphs (a), (b), or (c) of this section, such that the warning statement is clearly legible and conspicuous at the time of product delivery, if the product may be returned by the purchaser at or after the time of delivery or if the purchase is not complete until the time of delivery (e.g., products delivered C.O.D.).

§ 82.110 Form of label bearing warning statement.

(a) *Conspicuousness and contrast.* The warning statement shall appear in conspicuous and legible type by typography, layout, and color with other printed matter on the label. The warning statement shall appear in sharp contrast to any background upon which it appears. Examples of combinations of colors which may not satisfy the proposed requirement for sharp contrast are: black letters on a dark blue or dark green background, dark red letters on a light red background, light red letters on a reflective silver background, and white letters on a light gray or tan background.

(b) *Name of substance.* The name of the class I or class II substance to be inserted into the warning statement shall be the standard chemical name of the substance as listed in 40 CFR part 82, appendix A to subpart A, except that:

(1) The acronym ''CFC'' may be substituted for ''chlorofluorocarbon.''

(2) The acronym ''HCFC'' may be substituted for ''hydrochlorofluorocarbon.''

(3) The term ''1,1,1-trichloroethane'' may be substituted for ''methyl chloroform.''

(c) *Combined statement for multiple class I substances.* If a container containing or a product contains or is manufactured with, more than one class I or class II substance, the warning statement may include the names of all of the substances in a single warning statement, provided that the combined statement clearly distinguishes which substances the container or product contains and which were used in the manufacturing process.

(d) *Format.* (1) The warning statement shall be blocked within a square or rectangular area, with or without a border. (2) The warning statement shall appear in lines that are parallel to the surrounding text on the product's PDP, display panel, supplemental printed material or promotional printed material.

(e) *Type style.* The ratio of the height of a capital letter to its width shall be such that the height of the letter is no more than 3 times its width; the signal word ''WARNING'' shall appear in all capital letters.

(f) *Type size.* The warning statement shall appear at least as large as the type sizes prescribed by this paragraph. The type size refers to the height of the capital letters. A larger type size materially enhances the legibility of the statement and is desirable.

(1) *Display panel or outer packaging.* Minimum type size requirements for the warning statement are given in Table 1 to this paragraph and are based upon the area of the display panel of the product or container. Where the statement is on outer packaging, as well as the display panel area, the statement shall appear in the same

minimum type size as on the display panel.

TABLE 1 TO § 82.110(F)(1)

	Area of display panel (sq. in.)					
	0–2	>2–5	>5–10	>10–15	>15–30	>30
Type size (in.)[1]						
Signal word	3/64	1/16	3/32	7/64	1/8	5/32
Statement	3/64	3/64	1/16	3/32	3/32	7/64

> Means greater than.
[1] Minimum height of printed image of letters.

(2) *Alternative placement.* The minimum type size for the warning statement on any alternative placement which meets the requirements of § 82.108(c) is 3/32 inches for the signal word and 1/16 of an inch for the statement.

(3) *Promotional printed material.* The minimum type size for the warning statement on promotional printed material is 3/32 inches for the signal word and 1/16 of an inch for the statement, or the type size of any surrounding text, whichever is larger.

§ 82.112 Removal of label bearing warning statement.

(a) *Prohibition on removal.* Except as described in paragraph (b) or (c) of this section, any warning statement that accompanies a product or container introduced into interstate commerce, as required by this subpart, must remain with the product or container and any product incorporating such product or container, up to and including the point of sale to the ultimate consumer.

(b) *Incorporation of warning statement by subsequent manufacturers.* A manufacturer of a product that incorporates a product that is accompanied by a label bearing the warning statement may remove such label from the incorporated product if the information on such label is incorporated into a warning statement accompanying the manufacturer's product, or if, pursuant to paragraph (c) of this section, the manufacturer of the product is not required to pass through the information contained on or incorporated in the product's label.

(c) *Manufacturers that incorporate products manufactured with controlled substances.* A manufacturer that incorporates into its own product a component product that was purchased from another manufacturer, was manufactured with a process that uses a controlled substance(s), but does not contain such substance(s), may remove such label from the incorporated product and need not apply a warning statement to its own product, if the manufacturer does not use a controlled substance in its own manufacturing process. A manufacturer that uses controlled substances in its own manufacturing process, and is otherwise subject to the regulations of this subpart, must label pursuant to § 82.106, but need not include information regrading the incorporated product on the required label.

(d) *Manufacturers, distributors, wholesalers, retailers that sell spare parts manufactured with controlled substances solely for repair.* Manufacturers, distributors, wholesalers, and retailers that purchase spare parts manufactured with a class I substance from another manufacturer or supplier, and sell such spare parts for the sole purpose of repair, are not required to pass through an applicable warning label if such products are removed from the original packaging provided by the manufacturer from whom the products are purchased. Manufacturers of the spare parts manufactured with controlled substances must still label their products; furthermore, manufacturers, importers, and distributors of such products must pass through the labeling information as long as products remain assembled and packaged in the manner assembled and packaged by the original manufacturer. This exemption shall not apply if a spare part is later used for manufacture and/or for purposes other than repair.

§ 82.114 Compliance by manufacturers and importers with requirements for labeling of containers of controlled substances, or products containing controlled substances.

(a) *Compliance by manufacturers and importers with requirements for labeling of containers of controlled substances, or products containing controlled substances.* Each manufacturer of a product incorporating another product or container containing a controlled substance, to which § 82.102 (a)(1), or, (a)(2) or (b)(1) applies, that is purchased or obtained from another manufacturer or supplier, is required to pass through and incorporate the labeling information that accompanies such incorporated product in a warning statement accompanying the manufacturer's finished product. Each importer of a product, or container containing a controlled substance, to which § 82.102 (a)(1), (a)(2), or (b)(1) applies, including a component product or container incorporated into the product, that is purchased from a foreign manufacturer or supplier, is required to apply a label, or to ensure that a label has been properly applied, at the site of U.S. Customs clearance.

(b) *Reliance on reasonable belief.* The manufacturer or importer of a product that incorporates another product container from another manufacturer or supplier may rely on the labeling information (or lack thereof) that it receives with the product, and is not required to independently investigate whether the requirements of this subpart are applicable to such purchased product or container, as long as the manufacturer reasonably believes that the supplier or foreign manufacturer is reliably and accurately complying with the requirements of this subpart.

(c) *Contractual obligations.* A manufacturer's or importer's contractual relationship with its supplier under which the supplier is required to accurately label, consistent with the requirements of this subpart, any products containing a controlled substance or containers of a controlled substance that are supplied to the manufacturer or importer, is evidence of reasonable belief.

§ 82.116 Compliance by manufacturers or importers incorporating products manufactured with controlled substances.

(a) *Compliance by manufacturers or importers incorporating products manufactured with controlled substances, or importing products manufactured with controlled substances.* Each manufacturer or importer of a product incorporating another product to which § 82.102 (a)(3) or (b)(2) applies, that is purchased from another manufacturer or supplier, is not required to pass through and incorporate the labeling information that accompanies such incorporated product in a warning statement accompanying the manufacturer's or importer's finished product. Importers of products to which § 82.102 (a)(3) or (b)(2) applies are required to apply a label, or to ensure that a label has been properly applied at the site of U.S. Customs clearance.

(b) *Reliance on reasonable belief.* The importer of a product purchased or obtained from a foreign manufacturer or supplier, which product may have been manufactured with a controlled substance, may rely on the information that it receives with the purchased product, and is not required to independently investigate whether the requirements of this subpart are applicable to the purchased or obtained product, as long as the importer reasonably believes that there was no use of controlled substances by the final manufacturer of the product being imported.

(c) *Contractual obligations.* An importer's contractual relationship with its supplier under which the supplier is required to accurately label, consistent with the requirements of this subpart, any products manufactured with a controlled substance that are supplied to the importer, or to certify to the importer whether a product was or was not manufactured with a controlled substance is evidence of reasonable belief.

§ 82.118 Compliance by wholesalers, distributors and retailers.

(a) *Requirement of compliance by wholesalers, distributors and retailers.* All wholesalers, distributors and retailers of products or containers to which this subpart applies are required to pass through the labeling information that

accompanies the product, except those purchasing from other manufacturers or suppliers spare parts manufactured with controlled substances and selling those parts for the demonstrable sole purpose of repair.

(b) *Reliance on reasonable belief.* The wholesaler, distributor or retailer of a product may rely on the labeling information that it receives with the product or container, and is not required to independently investigate whether the requirements of this subpart are applicable to the product or container, as long as the wholesaler, distributor or retailer reasonably believes that the supplier of the product or container is reliably and accurately complying with the requirements of this subpart.

(c) *Contractual obligations.* A wholesaler, distributor or retailer's contractual relationship with its supplier under which the supplier is required to accurately label, consistent with the requirements of this subpart, any products manufactured with a controlled substance that are supplied to the wholesaler, distributor or retailer is evidence of reasonable belief.

§ 82.120 Petitions.

(a) *Requirements for procedure and timing.* Persons seeking to apply the requirements of this regulation to a product containing a class II substance or a product manufactured with a class I or a class II substance which is not otherwise subject to the requirements, or to temporarily exempt a product manufactured with a class I substance, based on a showing of a lack of currently or potentially available alternatives, from the requirements of this regulation may submit petitions to: Labeling Program Manager, Stratospheric Protection Division, Office of Atmospheric Programs, U.S. Environmental Protection Agency, 6202–J, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Such persons must label their products while such petitions are under review by the Agency.

(b) *Requirement for adequate data.* Any petition submitted under paragraph (a) of this section shall be accompanied by adequate data, as defined in § 82.120(c). If adequate data are not included by the petitioner, the Agency may return the petition and request specific additional information.

(c) *Adequate data.* A petition shall be considered by the Agency to be supported by adequate data if it includes all of the following:

(1) A part clearly labeled ''Section I.A.'' which contains the petitioner's full name, company or organization name, address and telephone number, the product that is the subject of the petition, and, in the case of a petition to temporarily exempt a product manufactured with a class I substance from the labeling requirement, the manufacturer or manufacturers of that product.

(2) For petitions to temporarily exempt a product manufactured with a class I substance only, a part clearly labeled ''Section I.A.T.'' which states the length of time for which an exemption is requested.

(3) A part clearly labeled ''Section I.B.'' which includes the following statement, signed by the petitioner or an authorized representative:

''I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information.''

(4) A part clearly labeled ''Section I.C.'' which fully explains the basis for the petitioner's request that EPA add the labeling requirements to or remove them from the product which is the subject of the petition, based specifically upon the technical facility or laboratory tests, literature, or economic analysis described in paragraphs (c) (5), (6) and (7) of this section.

(5) A part clearly labeled ''Section II.A.'' which fully describes any technical facility or laboratory tests used to support the petitioner's claim.

(6) A part clearly labeled ''Section II.B.'' which fully explains any values taken from literature or estimated on the basis of known information that are used to support the petitioner's claim.

(7) A part clearly labeled ''Section II.C.'' which fully explains any economic analysis used to support the petitioner's claim.

(d) *Criteria for evaluating petitions.* Adequate data in support of any petition to the Agency to add a product to the labeling requirement or temporarily remove a product from the labeling requirement will be evaluated based upon a showing of sufficient quality and scope by the petitioner of whether there are or are not substitute products or manufacturing processes for such product:

(1) That do not rely on the use of such class I or class II substance;

(2) That reduce the overall risk to human health and the environment; and

(3) That are currently or potentially available.

(e) *Procedure for acceptance or denial of petition.* (1) If a petition submitted under this section contains adequate data, as defined under paragraph (c) of this section, the Agency shall within 180 days after receiving the complete petition either accept the petition or deny the petition.

(2) If the Agency makes a decision to accept a petition to apply the requirements of this regulation to a product containing or manufactured with a class II substance, the Agency will notify the petitioner and publish a proposed rule in the FEDERAL REGISTER to apply the labeling requirements to the product.

(3) If the Agency makes a decision to deny a petition to apply the requirements of this regulation to a product containing or manufactured with a class II substance, the Agency will notify the petitioner and publish an explanation of the petition denial in the FEDERAL REGISTER.

(4) If the Agency makes a decision to accept a petition to temporarily exempt a product manufactured with a class I substance from the requirements of this regulation, the Agency will notify the petitioner and publish a proposed rule in the FEDERAL REGISTER to temporarily exempt the product from the labeling requirements. Upon notification by the Agency, such manufacturer may immediately cease its labeling process for such exempted products.

(5) If the Agency makes a decision to deny a petition to temporarily exempt a product manufactured with a class I substance from the requirements of this regulation, the Agency will notify the petitioner and may, in appropriate circumstances, publish an explanation of the petition denial in the FEDERAL REGISTER.

§ 82.122 Certification, recordkeeping, and notice requirements.

(a) *Certification.* (1) Persons claiming the exemption provided in § 82.106(b)(2) must submit a written certification to the following address: Labeling Program Manager, Stratospheric Protection Division, Office of Atmospheric Programs, 6205–J, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

(2) The certification must contain the following information:

(i) The exact location of documents verifying calendar year 1990 usage and the 95% reduced usage during a twelve month period;

(ii) A description of the records maintained at that location;

(iii) A description of the type of system used to track usage;

(iv) An indication of which 12 month period reflects the 95% reduced usage, and;

(v) Name, address, and telephone number of a contact person.

(3) Persons who submit certifications postmarked on or before May 15, 1993, need not place warning labels on their products manufactured using CFC–113 or methyl chloroform as a solvent. Persons who submit certifications postmarked after May 15, 1993, must label their products manufactured using CFC–113 or methyl chloroform as a solvent for 14 days following such submittal of the certification.

(4) Persons certifying must also include a statement that indicates their future annual use will at no time exceed 5% of their 1990 usage.

(5) Certifications must be signed by the owner or a responsible corporate officer.

(6) If the Administrator determines that a person's certification is incomplete or that information supporting the exemption is inadequate, then

products manufactured using CFC–113 or methyl chloroform as a solvent by such person must be labeled pursuant to § 82.106(a).

(b) *Recordkeeping.* Persons claiming the exemption under section 82.106(b)(2) must retain supporting documentation at one of their facilities.

(c) *Notice Requirements.* Persons who claim an exemption under § 82.106(b)(2) must submit a notice to the address in paragraph (a)(1) of this section within 30 days of the end of any 12 month period in which their usage of CFC–113 or methyl chloroform used as a solvent exceeds the 95% reduction from calendar year 1990.

§ 82.124 Prohibitions.

(a) *Warning statement*—(1) *Absence or presence of warning statement.* (i) Applicable May 15, 1993, except as indicated in paragraph (a)(5) of this section, no container or product identified in § 82.102(a) may be introduced into interstate commerce unless it bears a warning statement that complies with the requirements of § 82.106(a) of this subpart, unless such labeling is not required under § 82.102(c), § 82.106(b), § 82.112 (c) or (d), § 82.116(a), § 82.118(a), or temporarily exempted pursuant to § 82.120.

(ii) On January 1, 2015, or any time between May 15, 1993 and January 1, 2015 that the Administrator determines for a particular product manufactured with or containing a class II substance that there are substitute products or manufacturing processes for such product that do not rely on the use of a class I or class II substance, that reduce the overall risk to human health and the environment, and that are currently or potentially available, no product identified in § 82.102(b) may be introduced into interstate commerce unless it bears a warning statement that complies with the requirements of § 82.106, unless such labeling is not required under § 82.106(b), § 82.112 (c) or (d), § 82.116(a) or § 82.118(a).

(2) *Placement of warning statement.* (i) On May 15, 1993, except as indicated in paragraph (a)(5) of this section, no container or product identified in § 82.102(a) may be introduced into interstate commerce unless it bears a warning statement that complies with the requirements of § 82.108 of this subpart, unless such labeling is not required under § 82.102(c), § 82.106(b), § 82.112 (c) or (d), § 82.116(a), § 82.118(a), or temporarily exempted pursuant to § 82.120.

(ii) On January 1, 2015, or any time between May 15, 1993 and January 1, 2015 that the Administrator determines for a particular product manufactured with or containing a class II substance that there are substitute products or manufacturing processes for such product that do not rely on the use of a class I or class II substance, that reduce the overall risk to human health and the environment, and that are currently or potentially available, no product identified in § 82.102(b) may be introduced into interstate commerce unless it bears a warning statement that complies with the requirements of § 82.108 of this subpart, unless such labeling is not required under § 82.106(b), § 82.112 (c) or (d), § 82.116(a) or § 82.118(a).

(3) *Form of label bearing warning statement.* (i) Applicable May 15, 1993, except as indicated in paragraph (a)(5) of this section, no container or product identified in § 82.102(a) may be introduced into interstate commerce unless it bears a warning statement that complies with the requirements of § 82.110, unless such labeling is not required pursuant to § 82.102(c), § 82.106(b), § 82.112 (c) or (d), § 82.116(a), § 82.118(a), or temporarily exempted pursuant to § 82.120.

(ii) On January 1, 2015, or any time between May 15, 1993 and January 1, 2015 that the Agency determines for a particular product manufactured with or containing a class II substance, that there are substitute products or manufacturing processes that do not rely on the use of a class I or class II substance, that reduce the overall risk to human health and the environment, and that are currently or potentially available, no product identified in § 82.102(b) may be introduced into interstate commerce unless it bears a warning statement that complies with the requirements of § 82.110, unless such labeling is not required pursuant to § 82.106(b), § 82.112 (c) or (d), § 82.116(a), or § 82.118(a).

(4) On or after May 15, 1993, no person may modify, remove or interfere with any warning statement required by

this subpart, except as described in § 82.112.

(5) In the case of any substance designated as a class I or class II substance after February 11, 1993, the prohibitions in paragraphs (a)(1)(i), (a)(2)(i), and (a)(3)(i) of this section shall be applicable one year after the designation of such substance as a class I or class II substance unless otherwise specified in the designation.

Subpart F—Recycling and Emissions Reduction

SOURCE: 58 FR 28712, May 14, 1993, unless otherwise noted.

§ 82.150 Purpose and scope.

(a) The purpose of this subpart is to reduce emissions of class I and class II refrigerants to the lowest achievable level during the service, maintenance, repair, and disposal of appliances in accordance with section 608 of the Clean Air Act.

(b) This subpart applies to any person servicing, maintaining, or repairing appliances except for motor vehicle air conditioners. This subpart also applies to persons disposing of appliances, including motor vehicle air conditioners. In addition, this subpart applies to refrigerant reclaimers, appliance owners, and manufacturers of appliances and recycling and recovery equipment.

§ 82.152 Definitions.

Appliance means any device which contains and uses a class I or class II substance as a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.

Apprentice means any person who is currently registered as an apprentice in service, maintenance, repair, or disposal of appliances with the U.S. Department of Labor's Bureau of Apprenticeship and Training (or a State Apprenticeship Council recognized by the Bureau of Apprenticeship and Training). If more than two years have elapsed since the person first registered as an apprentice with the Bureau of Apprenticeship and Training (or a State Apprenticeship Council recognized by the Bureau of Apprenticeship and Training), the person shall not be considered an apprentice.

Approved equipment testing organization means any organization which has applied for and received approval from the Administrator pursuant to § 82.160.

Certified refrigerant recovery or recycling equipment means equipment certified by an approved equipment testing organization to meet the standards in § 82.158 (b) or (d), equipment certified pursuant to § 82.36(a), or equipment manufactured before November 15, 1993, that meets the standards in § 82.158 (c), (e), or (g).

Commercial refrigeration means, for the purposes of § 82.156(i), the refrigeration appliances utilized in the retail food and cold storage warehouse sectors. Retail food includes the refrigeration equipment found in supermarkets, convenience stores, restaurants and other food service establishments. Cold storage includes the equipment used to store meat, produce, dairy products, and other perishable goods. All of the equipment contains large refrigerant charges, typically over 75 pounds.

Critical component means, for the purposes of § 82.156(i), a component without which industrial process refrigeration equipment will not function, will be unsafe in its intended environment, and/or will be subject to failures that would cause the industrial process served by the refrigeration appliance to be unsafe.

Custom-built means, for the purposes of § 82.156(i), that the equipment or any of its critical components cannot be purchased and/or installed without being uniquely designed, fabricated and/or assembled to satisfy a specific set of industrial process conditions.

Disposal means the process leading to and including:

(1) The discharge, deposit, dumping or placing of any discarded appliance into or on any land or water;

(2) The disassembly of any appliance for discharge, deposit, dumping or placing of its discarded component parts into or on any land or water; or

(3) The disassembly of any appliance for reuse of its component parts.

Follow-up verification test means, for the purposes of § 82.156(i), those tests that involve checking the repairs within 30 days of the appliance's returning