ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL-5132-8]

RIN 2060-AE51

Protection of Stratospheric Ozone; Labeling Supplemental Rulemaking

AGENCY: Environmental Protection

Agency (EPA).

ACTION: Final rule.

SUMMARY: This document amends EPA's existing labeling regulations by adding an exemption from the labeling requirements regulations when controlled substances are destroyed, adding an exemption for spare parts that are used in repair, making revisions to clarify the labeling of waste, and making several other minor clarifying revisions. EPA is promulgating these revisions in response to numerous comments, in order to recognize and alleviate the burden placed on specific parties whose activities contribute no additional emissions of ozone-depleting substances. While these changes provide additional flexibility to the regulated community, they in no way compromise the environmental goals and benefits of protecting public health through the labeling regulation.

EFFECTIVE DATE: This final rule is effective February 21, 1995.

ADDRESSES: Comments on this final rule can be found in Public Docket No. A–91–60, Room M–1500 (LE–131), Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The docket may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT:
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SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

- I. Introduction
- II. Destruction Exemption from the Labeling Requirements
 - A. Background on Destruction Policies
 - Background on Montreal Protocol's Destruction Policy
 - 2. Fourth Meeting of the Parties to the Montreal Protocol
 - B. Phaseout Regulations

- C. Proposed Accelerated Phaseout Destruction Provisions
- D. Proposed Destruction Provision in the Final Labeling Rule
- E. Requirements of RCRA and the Proposed Hazardous Organic NESHAP (HON)
- 1. Resource Conservation and Recovery Act (RCRA) Standards
- 2. Proposed Hazardous Organic NESHAP (HON) Regulations
- F. Proposed Amendments to the Final Labeling Regulations—Products Exempt from Labeling Requirements Where Manufacturers Use Protocol-approved Destruction Technologies
- 1. Proposal
- 2. Response to Comments
- 3. Today's Rule
- III. Labeling Requirements of Containers of Waste
 - A. Current Requirements for Containers of Controlled Substance Waste and Wastes Containing Trace Amounts of Controlled Substances
 - B. Today's Proposal Regarding Labeling Requirements of Containers of Regulated Waste
 - C. Response to Comments
 - D. Today's Rule
- IV. Labeling Requirements for Spare Parts to be Used Solely for Repair
 - A. Proposal
 - B. Response to Comments
 - C. Today's Rule
- V. Clarification of the Meaning of Products "Manufactured With"
- VI. Exemption for Trace Quantities
- VII. Labeling Requirements of Containers of 55 Gallons and Smaller Containing Controlled Substances
- VIII. Definition of Importer
- IX. Certification Requirements for Reduced
 Use Exemption
- X. Imports and Products Introduced In Bond at the U.S./Mexico Border
- XI. Incidental Uses of Controlled Substances
- XII. Request for Comments Regarding Plasma Etching
- XIII.Miscellaneous
- XIV. Summary of Supporting Analysis
 - A. Executive Order 12866
 - B. Regulatory Flexibility Act
 - C. Paperwork Reduction Act
- XV. Judicial Review

I. Introduction

In a final rule published on February 11, 1993 (58 FR 8136), EPA promulgated regulations to implement section 611 of the Clean Air Act. The regulations mandate that, effective May 15, 1993, labels are required on containers of class I and class II substances and products containing or manufactured with class I substances. The rule also calls for labels on all products containing or manufactured with class I substances, beginning on January 1, 2015

The final regulations exempt products manufactured using class I substances on an intermittent basis, and not as a direct part of the manufacturing process of the product, such as that employed in

spot cleaning textiles during the manufacturing process. The rule explains that such intermittent contact use of controlled substances was found to be incidental "contact." The final rule also explains that intermittent "contact" uses, though they may involve a brief initial physical contact between the ozone-depleting "controlled substance" and the product, occur infrequently, typically as part of an upkeep process, and that the controlled substance does not come into contact with every product. In other situations, where the controlled substance has contact on an intermittent basis only with the surface area of manufacturing equipment, and although there may be an initial contact with the first few products themselves, the controlled substance will not contact every product manufactured thereafter. Labeling is therefore not required in either of the above cases.

After the final regulations had been published, EPA received several comments from the regulated community requesting clarification of certain parts of the regulations or requesting certain revisions to the regulations. After review of these comments and concerns, EPA determined that certain revisions and clarifications would be appropriate. EPA therefore published a notice of proposed rulemaking (NPRM) on December 30, 1993 (58 FR 69568) proposing such revisions and making such clarifications.

The proposed amendments for the labeling regulations provide exemptions from labeling requirements for companies that destroy controlled substances used in their manufacturing processes to a 98 percent destruction efficiency, using any of the following five destruction technologies approved by the Parties to the Montreal Protocol: liquid injection incineration, reactor cracking, gaseous/fume oxidation, rotary kiln incineration and cement kilns. The proposal also proposes to provide exemptions for waste that is to be discarded; however, waste containers of controlled substances that are to be recycled or reclaimed would still require a label. Additionally, the NPRM proposed to exempt purchasers of spare parts manufactured with a controlled substance from the label pass-through requirement when such purchasers sell such spare parts for the sole purpose of repair and when such products are removed from their original packaging. Spare parts manufactured with a class I substance would require a label; however, once these parts are sold to a distributor who is to sell them to repair persons, such distributors would not be