stated in the proposal that it expects companies that are regulated under such state laws governing the control of emissions of controlled substances in industrial processes to be in full compliance with such laws.

EPA also proposed that those companies that are not covered by either RCRA regulations or the HON must follow the Code of Good Housekeeping Practices, as described in the UNEP Ad-Hoc Technical Advisory Committee on ODS Destruction Technologies, as well as the whole of Chapter 5 of that report, in addition to meeting the 98 percent DE, using one of the five approved destruction technologies.

The UNEP Ad-Hoc Technical Advisory Committee on ODS Destruction Technologies recommends that atmospheric releases of controlled substances shall be monitored at all facilities with air emission discharges. For controlled substances, that report recommends that flow meters or continuously recording weighing equipment for individual containers should be used. At a minimum, containers should be weighed "full" and "empty" to establish quantities destroyed.

While there are no recordkeeping requirements specifically associated with the destruction exemption from labeling, the accelerated phaseout regulations (58 FR 65018) provide that companies relying on the destruction provisions of that rule must maintain records of destruction. For those companies, these same records will be consulted in inspecting eligibility for the destruction exemption from labeling. For manufacturers that do not receive production or consumption allowances, records required under other relevant regulations that determine the amount destroyed, the destruction efficiency, and the performance standards of operation must be made available to EPA upon request.

2. Response to Comments

The Agency requested comments on its proposal to exempt products from the labeling requirements where controlled substances used to manufacture the product are destroyed according to the criteria proposed by EPA. One commenter supported the use of destruction efficiencies that will be set in the HON, in instances where RCRA standards do not apply.

A commenter questioned the inclusion of the references to state regulations in this proposal because, according to the commenter, it makes EPA an enforcer of state laws and can potentially add federal penalties to state

penalties assessed as a result of an inadvertent violation of a state law. EPA has removed the references to state regulations from the definition of "completely destroy" (§ 82.104(c)). It is not the Agency's intent to enforce state regulations, though EPA of course expects compliance with these laws.

Nine commenters agreed with the proposed destruction exemption requirements. However, several commenters requested an expanded definition of destruction technologies to include technologies not listed as one of the five acceptable destruction technologies outlined by the Montreal Protocol Parties. EPA disagrees with these requests. The intent of the destruction exemption under the labeling rule is to credit processes that emit trace quantities or no quantities of class I substances. As a Party to the Protocol, EPA believes that the U.S. should not expand the destruction exemption beyond the list of destruction technologies approved by the Parties. The five technologies approved by the Parties have been carefully reviewed and have been found to protect the environment from the harm caused by the release of control substances. EPA believes that no other technologies should be included until the Parties have reviewed such technologies and been assured of their safety. As the Parties review and approve additional technologies, EPA will explore expanding its list under these regulations. However, today's rulemaking will cover only those five destruction technologies approved by the Parties to the Protocol.

One commenter requested clarification that off-site destruction can qualify for this exemption. It is the Agency's intent to include off-site destruction as part of the destruction exemption. That same commenter requested that EPA make the UNEP Report available through the SPD hotline. Chapter 5 of the UNEP Report is currently available through the SPD hotline and can be found in Air Docket A–91–60.

3. Today's Rule

In light of the above discussion, EPA establishes in today's rule the destruction exemption as proposed in the December 30, 1993 Federal Register. Today's action specifies that those persons using a controlled substance in their manufacturing process, but then completely destroying that substance using one of the five approved destruction technologies, are exempt from labeling the product.

III. Labeling Requirements of Containers of Waste

A. Initial Requirements for Containers of Controlled Substance Waste and Wastes Containing Trace Amounts of Controlled Substances

EPA indicated in the final labeling regulations that a person handling containers of waste that contain class I or class II substances destined for incineration would benefit from the specific chemical information in the warning statement when handling. Though the label does not specifically address handling practices of such substances, it would inform technicians handling the containers of chemicals and would encourage them to dispose of them or recycle them correctly. In addition, containers of waste can be introduced into interstate commerce and must then be labeled as

"containing" a controlled substance.

Under the initial final rule, EPA also required that containers of such waste materials destined to be recycled or reclaimed bear the warning statement to ensure that the technician of a reclamation facility is aware of the substances contained in order to exercise proper caution. Reclaimed substances are also resold by the reclaimer, and thus are required under the current rule to be labeled upon their introduction into interstate commerce.

The Agency did not require in its original final rule that empty containers that once contained a controlled substance and are subsequently recycled and incorporated into another product bear a label. The original rule also permitted the removal of a label on a container that no longer contains a controlled substance. If such a container is subsequently charged with a class I or class II substance, a label is be required. Also, the final rule excluded containers, such as trucks, railroad cars, or crates, used to transport a "product containing" or "container containing" from the labeling requirements, because only the immediate container holding the controlled substance must be labeled.

B. Proposed Labeling Requirements of Containers of Regulated Waste

After the promulgation of the original labeling regulations, EPA received new information from the regulated community regarding the labeling requirements for containers of waste. The Agency required labeling of waste in the original labeling rule because it believed that the labeling information would be important to waste handlers and recycling and reclamation facilities. In addition, by requiring waste to be