convey the warning statement for containers that are 55 gallons and smaller. EPA requested comment on its proposal to allow alternative placement of warning statements on 55 gallon or smaller containers. Seven commenters agreed with this proposed change with no requests for additional information or clarification. Consequently, EPA is revising section 82.108 (c) of its labeling regulation to strike "larger than a 55 gallon drum" from the provision allowing alternative placement of the warning statement on containers of controlled substances.

VIII. Definition of Importer

For purposes of section 611, EPA clarifies that importers of "products manufactured with controlled substances" are included in the definition of "importer." While the intent of the §611 regulations was to cover imports of products manufactured with class I substances, the original definition did not explicitly include such a phrase. This came about as an oversight in transferring the definition from the phaseout regulations, where imports of containers and products containing controlled substances are regulated. Section 611 clearly mandates that "products manufactured with controlled substances" be labeled before they are introduced into interstate commerce. Therefore, for purposes of the labeling requirements and consistency with the statute, the definition of "importer" under section 611 is amended to include the phrase products manufactured with.

One commenter stated that the requirement to apply labels for imported products at the border is highly impractical, burdensome, time consuming and costly. While this issue, however, was not addressed in the proposed labeling amendments, EPA wishes to clarify that importers are responsible for ensuring that labels are properly affixed, but the labeling regulations do not require that the label can only be affixed at the border. The requirements may equally be met by ensuring that the label is affixed before the product reaches the border. The importer may negotiate with its supplier to ensure that labels are affixed prior to shipment. No other comments were received; the change in the definition of "importer" is established in today's rule, as proposed.

IX. Certification Requirements for Reduced Use Exemption

In section 82.122, EPA states that companies that reduced their use of CFC–113 and/or methyl chloroform (MCF) by 95 percent or greater over

their 1990 usage level could certify the reduction in writing to EPA and be exempt from the labeling requirements. In addition to other requirements for inclusion in the written certification, the regulations require that persons certifying to EPA must state that they will not exceed 5 percent of their 1990 use following the certification; however, the statement conveyed was numerically and grammatically incorrect. It reads: "Persons certifying must also include a statement that indicates that their future annual use will not at no time exceed 95 percent of their 1990 usage" (p. 8169).

EPA corrects this section of the regulations to state that a company must certify to EPA that its future use will not exceed 5 percent of its 1990 usage without notifying the Agency. Such notification would immediately result in labeling of the company's products. This subpart (§ 82.122 (a)(4)) would thus read: "Persons certifying must also include a statement that indicates their future annual use will at no time exceed 5 percent of their 1990 usage."

X. Imports and Products Introduced In Bond at the U.S./Mexico Border

The original labeling regulations state that products or containers introduced "in bond" at the Mexico border are not considered to be "imports." However, the preamble states that such products or containers are being introduced into U.S. interstate commerce and are therefore subject to the labeling requirements.

ÉPA proposed in its December 30, 1993 amendment that all products and containers subject to the labeling requirements that are made or charged in Mexico and subsequently brought into the U.S. must be labeled at the border where they are being introduced into U.S. interstate commerce. In order to facilitate enforcement of this rule, the Agency only requires that warning labels be placed on regulated products and containers at the border by persons introducing them into U.S. interstate commerce, rather than at the manufacturing facility in Mexico. However, the importer may contract with the Mexican manufacturer to provide the applicable warning statement prior to shipping.

This change supersedes EPA's reference to products or containers admitted in bond in the original labeling rule, since for purposes of the labeling requirements, the regulated products and containers are in fact being treated as "imports." This change makes the definition of import somewhat different from that in the final phaseout regulations. For purposes of the phaseout regulations, it is appropriate to exempt such products of U.S. origin that are brought back into the U.S. from Mexico in bond from the definition of import because allowances have already been expended and additional consumption allowances should not be required to bring these products back into the U.S.

However, it is appropriate and consistent with the intent of §611 to require labeling of these imported goods, since labeling is to occur regardless of whether the product is distributed domestically or imported. The Agency therefore is striking from the definition of "import" in section 82.104 (j) of the labeling regulation the exemption for bringing controlled substances, containers of, or products manufactured with, controlled substances into the U.S. from Mexico where such substance, container or product was admitted into Mexico in bond and is of U.S. origin. EPA requested and received no comments on the changes and consequently they remain in today's final regulation.

In addition, EPA notes that the preamble to the original labeling rule contained an inaccuracy in describing an arrangement regarding products brought from Mexico into the United States inbond. The preamble stated that, "Under the Maquiladora Agreement, the United States and Mexico established a free-trade zone along a segment of the U.S./Mexico border." There is no formal agreement as such between the two countries in this regard; rather, an arrangement exists, primarily under Mexican law, whereby controlled substances crossing the border from the U.S. into Mexico "inbond" (under a bond ensuring that the substance will remain in Mexico only temporarily) will be returned to the U.S., without being subject to Mexican import tariffs. In addition, the preamble to the original rule stated that "products are permitted to be transported across [the Maguiladoral zone without any U.S. Customs restrictions being imposed." This statement is misleading in that U.S. Customs does assist EPA in monitoring compliance with and enforcing U.S. environmental laws that generally apply without distinction to Maguiladora products. The preamble to the final rule should therefore be read to reflect these corrections. EPA requested comments on these corrections and received none. Consequently, the changes remain as proposed.

XI. Incidental Uses of Controlled Substances

In the original final regulations, the definition of "manufactured with"