within sixty days of publication of this action in the Federal Register. Under Section 307(b)(2), the requirements of this rule may not be challenged later in judicial proceedings brought to enforce those requirements.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Hydrochlorofluorocarbons, Imports, Interstate commerce, Nonessential products, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: December 23, 1994.

Carol M. Browner,

Administrator

Part 82, title 40, Code of Federal Regulations is amended to read as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671-7671(q).

2. Subpart E, consisting of §§ 82.100 through 82.124, is revised to read as follows:

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

Sec.

82.100 Purpose.

- Applicability. 82.102
- 82.104 Definitions.
- 82.106 Warning statement requirements.
- 82.108 Placement of warning statement.
- 82.110 Form of label bearing warning statement.
- 82.112 Removal of label bearing warning statement.
- 82.114 Compliance by manufacturers and importers with requirements for labeling of containers of controlled substances, or products containing controlled substances.
- 82.116 Compliance by manufacturers or importers incorporating products manufactured with controlled substances.
- 82.118 Compliance by wholesalers, distributors and retailers.
- 82.120 Petitions.
- Certification, recordkeeping, and 82.122 notice requirements.

82.124 Prohibitions.

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

§82.100 Purpose.

The purpose of this subpart is to require warning statements on containers of, and products containing or manufactured with, certain ozonedepleting 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 National 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