§ 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