

1. Resource Conservation and Recovery Act (RCRA) Standards

The RCRA regulations currently require that industries that incinerate waste covered by the regulations must meet "at stacks" destruction efficiency (DE) standards of 99.99 percent. The final accelerated phaseout regulations grant full credit for the destruction of controlled substances when they are destroyed in compliance with RCRA regulations 40 CFR 266.104. The accelerated phaseout rule indicates that the Agency grants 100 percent production allowances for companies that achieve 99.99 percent efficiency in the destruction of class I substances instead of only 99.99 percent in allowances, because, otherwise, a company would never be able to obtain credit for the full amount of the chemical used, and would eventually be unable to obtain sufficient volumes to operate.

The only substances that are covered under both RCRA as "hazardous constituents" and under Title VI of the Clean Air Act as controlled substances are methyl chloroform (MCF) and carbon tetrachloride (CTC). The remaining controlled substances are regulated under RCRA only when they are blended with hazardous wastes, such as when used solvents are incinerated. The incineration technologies approved by the Parties have been shown to be capable of achieving the 99.99 percent DE required by RCRA; however, the Parties do not specifically require that each of the technologies achieve such an efficiency. The Parties supported the recommendations of the Ad-Hoc Technical Committee on Destruction Technologies to require Code of Good Housekeeping procedures to be applied throughout a destruction facility.

2. Hazardous Organic NESHAP (HON) Regulations

Under some situations controlled substances are not covered by RCRA regulations, but may be covered by the HON regulations promulgated under section 112 of the Clean Air Act. The Agency published a final HON rule on April 22, 1994 (59 FR 19402), requiring companies to control toxic air emissions from chemical manufacturing processes. The HON regulates approximately 400 manufacturing processes associated with the Synthetic Organic Chemical Manufacturing Industry (SOCMI), as well as 7 non-SOCMI source categories. Section 112 of the Clean Air Act contains a list of 189 hazardous air pollutants (HAPS) of which a large portion are known to be emitted by the

above-mentioned industries. Of those listed under section 112, the only substances controlled under Title VI of the CAA are methyl chloroform (MCF), carbon tetrachloride (CCL4) and methyl bromide (newly listed as a class I substance in the accelerated phaseout rule). The HON covers five kinds of emission points within such facilities where these substances are emitted, including process vents, wastewater streams, transfer operations, storage tanks, and equipment leaks. The Agency requires that emission points be controlled with a "reference control technology" with specific applicability criteria, such as a 98 percent control efficiency for incinerators on process vents. The HON establishes performance standards for operating the control technologies, as well as criteria for the design of the control equipment. The Agency established that when organic HAPS are released through process vent sources, companies may route these emissions to a gaseous/fume oxidation incinerator for destruction. The Agency has determined that such incinerators may operate with a destruction efficiency of 98 percent.

The final accelerated phaseout regulation states that when regulations promulgated under section 112 of the Clean Air Act apply to the destruction of a controlled substance, and RCRA regulations do not apply, and the 98 percent destruction efficiency is achieved by incinerators to which emissions of controlled substances are routed, the Agency will grant the full allotment of allowances to replace chemicals that are destroyed under the conditions of the HON. In situations where section 112 regulations apply, but an achieved destruction efficiency is less than the 98% that the HON requires, the Agency will issue allowances only for the portion actually destroyed.

F. Amendments to the Final Labeling Regulations—Products Exempt from Labeling Requirements Where Manufacturers Use Protocol-approved Destruction Technologies

1. Notice of Proposed Rulemaking

The ultimate goal of Title VI of the CAA is to minimize depletion of stratospheric ozone. A destruction exemption, which would recognize, and provide an incentive for, the elimination of emissions of controlled substances through the use of approved destruction technologies, is therefore consistent with the goals of Title VI. This exemption is one method of reducing risks of ozone depletion. The initial labeling regulations published on

February 11, 1993 provide an exemption from the labeling requirements if a controlled substance used to manufacture a product is transformed, such that the controlled substance no longer poses a threat to the ozone layer; similarly, the same result comes about if a controlled substance used in the manufacture of a product is destroyed. The controlled substance is not emitted in either case and no environmental harm occurs through exempting such products from labeling.

EPA proposed that for any products manufactured with a class I or class II substance, if that substance is destroyed according to any applicable legal or regulatory requirements, using one of the five technologies approved by the Parties to the Protocol, the product would be exempt from the labeling requirements.

The Agency further proposed that the labeling exemption would apply only where a substance is destroyed to a DE of 98 percent or greater, using one of the five approved destruction technologies. A definition of "completely destroy," which means to destroy to 98 percent or greater destruction efficiency, using one of the five approved technologies, was included in the proposed rulemaking. Therefore, the proposed threshold at which labeling is exempted is for those products manufactured with controlled substances that are "completely" destroyed.

Furthermore, EPA proposed that where the destruction of a controlled substance is regulated under RCRA, the regulated party must achieve a destruction efficiency of 99.99 percent, destroying any controlled substances using one of the five approved technologies and complying with applicable RCRA regulations as they relate to destruction of ozone-depleting substances, in order to qualify for the exemption from labeling. If the destruction of a controlled substance is not regulated under RCRA but is regulated under the HON, the regulated party must achieve a destruction efficiency of 98 percent, as well as meet any other applicable standards imposed by the HON that relate to destruction of ozone-depleting substances, destroying any controlled substances using one of the five approved technologies, in order to qualify for the exemption from labeling.

The Agency is aware that state air quality permit laws may establish efficiency standards for emissions of controlled substances where no Federal regulations exist to cover them. In addition, state laws may be more stringent than comparable Federal regulations. In either case, the Agency