labeled, EPA attempted to encourage industry to minimize the amount of controlled substances in the waste stream and ultimately in the upper stratosphere. For this reason, the preamble to the original rule stated that all amounts, including trace quantities of controlled substances in waste, trigger the labeling requirements. The regulated community commented to EPA following publication of the final rule, addressing both the final rule and applicability determinations prepared by EPA on labeling of waste. Written comments on the Agency's treatment of waste and the relevant applicability determinations are available in the Air Docket A-91-60.

As a result of these comments, EPA proposed revisions to its original position on labeling waste containing controlled substances, in order to better facilitate industry's compliance with the regulations. The revisions that were proposed on December 30, 1993 are summarized below.

EPA stated in the notice of proposed rulemaking that containers of waste cannot be defined as products, "because they are not manufactured from raw or recycled materials in order to perform a specific task, nor does waste encounter a point of sale to an ultimate consumer." The Agency also stated that a container (such as a dumpster or a barrel) carrying a "product containing" which is ultimately disposed of or incinerated, such as a can of adhesive or foam scrap, does not fall within the definition of "container containing." Therefore, waste materials containing controlled substances are not required to be labeled under these regulations.

EPA also believes that containers of class I or class II waste do not fall under the definition of "container containing," in that the waste is not "intended to be transferred to another container, vessel or piece of equipment in order to realize its intended use." EPA's intention in including "intended use" in its definition was to target items to be consumed, thus giving consumers information on which to base a purchase decision. Waste is neither purchased nor "used" and thus, does not fall into the category of items to be consumed. In order to make this clear, EPA proposed a new $\S 82.106(b)(3)$ of the regulatory text, which includes "waste containing controlled substances or blends of controlled substances bound for discard" in the list of exemptions from warning label requirements. EPA also proposed a definition of "waste," for purposes of this rule, that includes items or substances discarded with the intent that they will serve no further useful

purpose. The term discarded can include being deposited in a landfill, being destroyed in an incinerator or chemical process, or undergoing some other type of final waste handling. Consequently, waste that is going to be discarded is not required to be labeled under this rulemaking.

Furthermore, the Agency stated that it believes that there is not a significant environmental benefit associated with labeling wastes of controlled substances. The labeling rule lays out requirements that will affect consumers' decisions, and thus, manufacturers' production decisions upstream. A label applied to the product(s) manufactured with or containing a controlled substance will provide such information to the consumer. Duplicating efforts by labeling the waste from a product that no longer serves its useful purpose has no influence on purchasing or consumer decisions, since waste is neither purchased nor used. Since waste is not a consumer item, a waste handler, whose business it is to handle all types of unwanted materials, would not be dissuaded from accepting a certain waste because of its effect on the ozone

However, EPA stated that it believes that containers that contain used or contaminated controlled substances, such as some refrigerants, methyl chloroform, carbon tetrachloride, other CFCs and HCFCs, and blends of controlled substances that are bound for recycling or reclamation do fall under the definition of "container containing." These substances will be transferred to realize their "intended use" and will later be used by consumers. Consequently, EPA proposed to continue requiring these containers to be labeled and did not propose such containers to be exempt from such requirements under this amendment. Such quantities are easily identifiable and are often recycled or reclaimed for manufacture or use in new products which would in turn require the mandated warning statement. Therefore, EPA stated that it believes that the mandated warning statement is warranted on containers of contaminated (or used) controlled substances and blends of controlled substances when they are introduced into interstate commerce for purposes of recycling or reclamation.

Because of the demand for and the high cost of controlled substances, EPA stated that it further believes that those using controlled substances will recycle or reclaim rather than discard them. Regulations promulgated pursuant to sections 608 and 609 of the Clean Air Act require recovery and recycling of

refrigerants; efficient management of other uses of controlled substances would preclude discarding as a prudent option. In cases where these substances cannot be reused, recycled, or reclaimed, they are most often destroyed rather than deposited in a landfill or disposed in some other manner that would allow emissions of the substance. As hazardous wastes, carbon tetrachloride, methyl chloroform, and methyl bromide cannot be placed in a landfill, these chemicals most often are incinerated if not reused. Additionally, no non-containerized liquid wastes can be placed in landfills.

C. Response to Comments

One commenter requested clarification of the definition of discard. Another commenter requested that the definition of discard be included in the preamble. EPA has defined discarding to include depositing in a landfill, destroying in an incinerator or chemical process, or undergoing some other type of final waste handling that does not include re-use, recycling, or reclamation. The use of the term "discard" is meant to differentiate that which will no longer be used in any manner because of landfilling or incineration, from that which will undergo some type of change or treatment to make it appropriate for further use.

Two commenters requested an exemption for scrap foam and scrap disposal products destined for recycling, while another commenter sought clarification for products containing other controlled substances that are bound for recycling. EPA's intent in the proposed amendment was not to require labeling of scrap foam, either destined for discard or for recycling. Rather, the Agency states that the warning statement is required on containers of used controlled substances and blends of controlled substances that are introduced into interstate commerce for purposes of recycling or reclamation. Containers of actual controlled substances or blends of controlled substances (i.e. bulk containers of actual chemical substances) can be distinguished from products that themselves contain controlled substances. The latter do not require labeling when disposed in any fashion (including recycling or reclamation).

Two commenters stated that EPA should exempt waste products destined for destruction in a cement kiln or burned for energy recovery. In the final accelerated phaseout rule (58 FR 65018), EPA responded to comments by making clear that destruction of class I substances in one of the five approved