destruction technologies, which provides energy recovery as a byproduct of the destruction process, would fall under the definition of destruction for purposes of the labeling exemption for waste. Energy recovery through the use of one of the five approved technologies does not disqualify a product manufactured with a class I substance that is destroyed by that technology from the labeling exemption. This remains consistent with the accelerated phaseout rule. A parallel situation exists when waste fuel is blended for purposes of providing auxiliary fuels for destruction facilities. When these fuels are intended to use one of the five approved destruction technologies for energy recovery, the waste fuels do not require labeling under today's rule. In either case, waste bound for energy recovery does not require labeling because it uses an incineration process and is ultimately destroyed.

Several commenters agreed with the proposed exemption for waste bound for discard; however, these commenters stated that the Agency should expand the definition of waste to be consistent with RCRA, which includes in its definition substances to be recycled. The purposes of the definition of waste under RCRA and under the labeling rule are very different. RCRA ensures that all hazardous waste materials, whether they are recycled, reclaimed, landfilled, incinerated, or otherwise disposed, are properly handled. The purpose of the labeling rule, however, is to provide purchasers with information upon which to make purchasing decisions. Therefore, since substances that are recycled continue to be passed through the stream of commerce to the ultimate consumer, who should know of its contents, bulk containers of these recycled substances require labeling

One of these commenters added that reclamation/recovery facilities are not consumers, and therefore do not serve the intent of the labeling rule which is to provide consumers with information upon which to make purchasing decisions. As stated above, recycled waste continues to be subject to labeling requirements because it is part of the stream of commerce and reclaimers are not considered ultimate consumers.

Another of these commenters stated that waste generators may not know how waste will be disposed of, therefore it would be difficult properly label waste and that warning labels on wastes may discourage recycling. EPA believes that since waste generators make the decision of where products are to be sent, they therefore have both control and knowledge of waste disposal

methods. Additionally, it is the intent of the labeling rule to encourage recycling efforts as waste handlers realize the benefits of additional availability and supply of recycled substances.

Another commenter requested further clarification on how an exemption applies to waste products bound for discard when they enter interstate commerce. The labeling rule draws distinctions based on materials that fall under the definition of "container containing" that are introduced into interstate commerce. Substances to be recycled and reclaimed that are introduced into interstate commerce fall under the definition of "container containing" under the labeling rule. As outlined in the original rule, substances are defined as "container containing" if they must be transferred to another container to realize their intended use by consumers. Because recycled and reclaimed substances must be transferred to other containers before continuing in the stream of commerce, labeling is required for such substances under today's rule. On the other hand, substances bound for discard (including destruction), are not "containers containing" under the labeling rule, because they are not "intended to be transformed to another container in order to realize [their] intended use."

D. Today's Rule

While it could be argued that requiring the labeling of waste provides valuable information about the contents of a waste to the handler, other regulations provide for similar information to be conveyed. For example, any waste considered to be hazardous (which includes carbon tetrachloride, methyl chloroform, and methyl bromide) must have its contents reported on the manifest required to accompany the waste under the Resource Conservation and Recovery Act (RCRA). Furthermore. EPA believes that the intent of the section 611 labeling provisions is to provide consumers with information upon which to make purchasing decisions, rather than to inform persons of contents for purposes of handling a substance, product or waste.

In summary, the Agency recognizes that waste should not be defined as a product under these regulations, nor should containers of waste be regarded as containers containing controlled substances, because they are not "intended to be transferred to another container, vessel or piece of equipment in order to realize its intended use." Consequently, as proposed, EPA adds in today's rule a new 82.106(b)(3), which provides exemptions from the labeling

requirements, to include, "Waste containing controlled substances or blends of controlled substances bound for discard." EPA emphasizes, however, that containers of used or contaminated controlled substances or of blends of these controlled substances that enter into interstate commerce and that are bound for recycling or reclamation are not proposed to be exempted, and thus would continue to require labeling. The definition of "waste" for purposes of this rulemaking means, "items or substances that are discarded with the intent that such items or substances will serve no further useful purpose."

IV. Labeling Requirements for Spare Parts to be Used Solely for Repair

A. Proposal

The original labeling rule did not require a product which has already been purchased and used to be labeled if the product components were manufactured with a controlled substance or a controlled substance was used in the repair itself. EPA believes that such a product is not being introduced into interstate commerce since the product is already owned by the ultimate consumer. In a product labeling applicability determination, (Letter from John Rasnic, Director EPA Stationary Source Compliance Division, to Michael Conlon, dated April 19, 1993 and Section 611 Applicability Determination Record Number 6, dated April 20, 1993), following the promulgation of the final rule, EPA clarified that the repair provision of the rule allows the repair of a product using a component manufactured with an ODS or using an ODS in the repair of the product without triggering labeling requirements.

Subsequent to promulgation, the Agency has received new information from several companies regarding spare parts that are intended for repair purposes only. Many companies who distribute spare parts stock up to several million of these parts in inventory purchased from vendors. These companies then sell these spare parts piecemeal to persons who repair original products. Due to the passthrough exemption for persons incorporating a product manufactured with a controlled substance that was purchased from a supplier, and due to the applicability determination regarding repairs, the repair person would not be required to label the repaired product. To require companies that order spare parts in bulk from suppliers to pass through labeling information with each order—perhaps containing several hundred individual