



AmericanCoatings
ASSOCIATIONSM

April 19, 2018

Bill Wehrum
Environmental Protection Agency
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1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Brittany Bolen
Office of Policy (1803A)
US Environmental Protection Agency
WJC North Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Mick Mulvaney
The Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

**Re: Start-up, Shut-down and Malfunction; American Coatings Association
(ACA) Concerns**

Dear Mr. Wehrum, Ms. Bolen and Mr. Mulvaney:

The U.S. Environmental Protection Agency (EPA) is currently conducting its Residual Risk and Technology Review (RTR) of the Paper and Other Web Surface Coating MACT in addition to the Miscellaneous Coatings Manufacturing (MCM) and the Miscellaneous Organic Chemical Manufacturing (MON) MACT rules. ACA¹ is concerned that EPA will remove the startup, shutdown, and malfunction (“SSM”) provisions from each of these rules, making it difficult, or in some cases impossible, for some facilities to meet the rules’ emission limitations during SSM periods, and especially during periods of malfunction of an emission control device. ACA therefore requests that, if the SSM provisions are

¹ The American Coatings Association (ACA) is a voluntary, nonprofit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory, and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services.

removed, EPA add work practice standards for periods of malfunctions (see attached Malfunction Work Practice Standard). Alternatively, ACA requests that EPA identify the issue clearly and request public comment in the preamble to each proposal of an RTR-related rule revisions, thereby providing EPA an opportunity to “pivot” on the issue without re-proposing the rule. Because EPA is under a compressed, court-ordered schedule for completing the RTRs, ACA requests that both EPA’s Office of Policy and the Office of Management and Budget (OMB) review EPA's development of RTR-related rule revisions to ensure that our concerns are considered, and ensure that each rule is technically sound and fair.

The work practice standards that we are requesting in this letter are specifically provided for in Section 112(h) of the Clean Air Act. Section 112(h) specifically authorizes EPA to establish “a design, equipment, work practice, or operational standard” when it is not feasible to prescribe or enforce a numeric emissions standard. EPA has recognized, and the courts have agreed, that malfunctions of emissions control, process, and manufacturing equipment are inherently unpredictable and non-routine events that are not feasible to include in calculating MACT emissions standards.²

In addition, it’s important to note that while we are requesting a work practice standard for malfunctions, the numerical emission standards of most MACT rules involve some sort of averaging period, typically hourly, daily, or monthly. As a consequence, any additional emissions that might occur during a malfunction do not automatically exceed the allowable emission average if the facility is able to shutdown the corresponding source quickly. But even immediate shutdown of a source when it malfunctions is not able to guarantee in all cases that the emission limits will be met during these periods.

In summary, a malfunction workpractice is needed in each of the MACT rules identified in this letter in the event that EPA removes the existing startup, shutdown, and malfunction provisions from these rules. EPA’s authority to create a malfunction workpractice is clear, and failure to do so will place multiple ACA member facilities in needless compliance jeopardy, result in generation of excess solid and hazardous waste, or result in potentially unsafe operating conditions.

Thank you for your consideration of our concerns. Please do not hesitate to contact me if you have any questions.

Sincerely,



David Darling,
VP, Health, Safety and Environmental Affairs
American Coatings Association

² National Emission Standards for Hazardous Air Pollutants: Nutritional Yeast Manufacturing Residual Risk and Technology Review, Final Rule, 82 Fed. Reg. 48156, 48159-160 (Oct. 16, 2017) (citing U.S. v. Sugar Corp. v. EPA, 830 F.3d 579, 606-610 (D.C. Cir. 2016))

Malfunction Work Practice Standard

The following work practice standard assures that all malfunctions of process equipment, control devices, and monitoring equipment are identified and corrected as soon as practicable in order to minimize excess HAP emissions, while assuring safe operating conditions, limiting the generation of excess solid and hazardous waste, and minimizing burden on industry.

Malfunction is defined in 40 C.F.R. § 63.2 of the NESHAP General Provisions as “any sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.”

Malfunctions Will be Identified and Production Suspended — To the extent practicable, control device operating systems shall be designed to provide an audio and/or visual identification of malfunctions. In the event of an alarm, the facility’s most appropriate responsible official will be notified. If it is determined that repair or restoring malfunctioning equipment to normal operation will take longer than the time needed to discontinue operation of the process equipment consistent with safe operating procedures, the responsible official will initiate procedures to minimize HAP emissions from the process equipment tied to the control equipment.

Paper and Other Web Surface Coating MACT— In the event of a malfunction of a control device or capture system for a coating line subject to a surface coating MACT, the facility may continue operation without the control device during the malfunction so long as the facility continues to meet the rule’s corresponding emission limits for the current compliance period. If compliance with the emission limits cannot be maintained, the facility shall expeditiously shutdown the coating line that is serviced by the malfunctioning control device or capture system. Expeditious shutdown means that each workstation of the line stops applying coating materials, and the line completes drying any coating materials that had already been applied onto the substrate as of the start of the malfunction. Draining coating materials from the line’s applicators, or from piping, pans, or related equipment that deliver coating materials to the applicator, is not required. Operations associated with the control device that do not produce HAP emissions may continue.

MCM/MON MACTs — In the event of a malfunction of a control device or a capture system used to meet the emission limits of the MCM/MON rules, the facility may continue to operate without the control device during the malfunction so long as the facility continues to meet the rule’s corresponding emission limits for the current compliance period. If compliance with the emission limits cannot be maintained, the facility shall expeditiously shutdown all process equipment subject to the MCM/MON rules that are serviced by the malfunctioning control device or capture system. The expeditious

shutdown shall minimize emissions of hazardous air pollutants while assuring worker safety and minimizing the production of hazardous and solid wastes, including suspending operation of each process vessel or reactor that vents to the control system as soon as its batch cycle has been completed. New production or other uses of that equipment subject to the MCM/MON will not resume until the control system is restored to its normal operation. Operations associated with the control device that do not produce HAP emissions may continue.

Malfunction Event Documentation and Reporting — Each malfunction will be documented, and each malfunction will be reported to the permitting authority.