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Reconditioning/Used Drum Management: American Coatings Association Comments Addressing U.S. Environmental Protection Agency Advanced Notice of Proposed Rulemaking

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The American Coatings Association (“ACA”) submitted comments to the United States Environmental Protection Agency (“EPA”) on November 22nd addressing the following Advanced Notice of Proposed Rulemaking (“ANPR”):

Used Drum Management and Reconditioning – 88 Fed. Reg. 54537 (August 11, 2023)

EPA’s ANPR solicits information/requests comments to assist the federal agency in the potential development of:

. . . non-regulatory and regulatory options that would ensure the proper management of used industrial containers that held hazardous chemicals or hazardous waste, up to and including the drum reconditioning process.

Drum reconditioning facilities clean and recondition metal and plastic and intermediate bulk containers for resale and reuse by cleaning, restoring, testing, and certifying the industrial containers. The containers may have held substances such as chemicals, resins, tars, adhesives, oils, soaps, solids, or related materials.

EPA has described the two main processes for reconditioning as:

- Burning residuals for metal drums in a burn-off oven or furnace
- Washing metal or plastic drums (or containers) with water and/or a caustic solution to remove residues

A key Resource Conservation and Recovery Act (“RCRA”) Subtitle C provision is relevant to drum reconditioning. The so-called “empty container” provision exempts from RCRA Subtitle C Hazardous Waste residues remaining in a drum or other container if certain conditions are met. See 40 CFR § 261.7.

EPA has expressed concern that the volume of containers handled by reconditioning facilities could mean that some non-RCRA empty containers are accepted.

The federal agency described the potential options for revising its regulation of drum reconditioning as:

- Revising the RCRA regulations
- Non-regulatory options

ACA describes itself as 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 states it represents:

- Paint and coatings manufacturers
- Raw materials suppliers
- Distributors
- Technical professionals

The November 22nd comments state by way of introduction that:

- The existing regulatory framework for the management of used industrial containers works
- If action needs to be taken, EPA is encouraged to develop non-regulatory guidance to promote compliance with existing regulations
- Guidance could be developed in collaboration with EPA, industry, and other interested stakeholders

The ACA comments address:

- Industrial Container Use & Management in the Paint and Coatings Industry
- Current Framework and Possible Regulatory/Non-Regulatory Options
- Elimination of the Empty Container Exemption (noting that paint and coatings companies depend on reconditioners to provide cost effective and safe management of their empty containers and elimination of the RCRA empty container exemption would increase the cost of container reconditioning, eliminate the cost savings of reconditioned containers, and generate additional waste for industry to manage)
- Pretreatment Requirements (opposes mandatory pretreatment requirements such as triple rinsing the containers)

A copy of the ACA comments can be downloaded [here](#).