

1 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
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4 **Solid and Hazardous Waste Commission/Hazardous Materials and**
5 **Waste Management Division**
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8 6 CCR 1007-3
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10 HAZARDOUS WASTE
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14 **Safe Management of Recalled Airbags**
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17 **1) Section 260.10 is amended by adding the following definitions in alphabetical order to**
18 **read as follows:**
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20
21 **§ 260.10 Definitions**
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23 *****

24 **“Airbag waste”** means any hazardous waste airbag modules or hazardous waste airbag inflators.
25

26 **“Airbag waste collection facility”** means any facility that receives airbag waste from airbag handlers
27 subject to regulation under § 261.4(j) of these regulations, and accumulates the waste for more than ten
28 days.
29

30 **“Airbag waste handler”** means any person, by site, who generates airbag waste that is subject to
31 regulation under these regulations.
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33 *****
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36 **2) Section 261.4 is amended by adding reserved paragraphs (h) and (i) and adding**
37 **paragraph (j) to read as follows:**
38

39 **§ 261.4 Exclusions.**
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41 *****
42

43 (h) **Reserved.**

44
45 (i) **Reserved.**

46
47 (j) **Airbag waste.** (1) Airbag waste at the airbag waste handler or during transport to an airbag waste
48 collection facility or designated facility is not subject to regulation under Parts 262 through 268, or Part

49 100 of these regulations, and is not subject to the notification requirements of Part 99 of these regulations
50 provided that:

51
52 (i) The airbag waste is accumulated in a quantity of no more than 250 airbag modules or airbag
53 inflators, for no longer than 180 days;

54
55 (ii) The airbag waste is packaged in a container designed to address the risk posed by the airbag
56 waste and labeled "Airbag Waste—Do Not Reuse";

57
58 (iii) The airbag waste is sent directly to either:

59
60 (A) An airbag waste collection facility in the United States under the control of a vehicle
61 manufacturer or their authorized representative, or under the control of an authorized party
62 administering a remedy program in response to a recall under the National Highway Traffic
63 Safety Administration, or

64
65 (B) A designated facility as defined in § 260.10 of these regulations;

66
67 (iv) The transport of the airbag waste complies with all applicable U.S. Department of
68 Transportation regulations in 49 CFR part 171 through 180 during transit;

69
70 (v) The airbag waste handler maintains at the handler facility for no less than three (3) years
71 records of all off-site shipments of airbag waste and all confirmations of receipt from the receiving
72 facility. For each shipment, these records must, at a minimum, contain the name of the
73 transporter and date of the shipment; name and address of receiving facility; and the type and
74 quantity of airbag waste (i.e., airbag modules or airbag inflators) in the shipment. Confirmations of
75 receipt must include the name and address of the receiving facility; the type and quantity of the
76 airbag waste (i.e., airbag modules and airbag inflators) received; and the date which it was
77 received. Shipping records and confirmations of receipt must be made available for inspection
78 and may be satisfied by routine business records (e.g., electronic or paper financial records, bills
79 of lading, copies of DOT shipping papers, or electronic confirmations of receipt).

80
81 (2) Once the airbag waste arrives at an airbag waste collection facility or designated facility, it
82 becomes subject to all applicable hazardous waste regulations, and the facility receiving airbag waste
83 is considered the hazardous waste generator for the purposes of the hazardous waste regulations and
84 must comply with the requirements Part 262 of these regulations.

85
86 (3) Reuse in vehicles of defective airbag modules or defective airbag inflators subject to a recall under
87 the National Highway Traffic Safety Administration is considered sham recycling and prohibited under
88 § 261.2(g) of these regulations.

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90
91 **3) Section 262.14 is amended by revising paragraphs (a) introductory text and (a)(5) to**
92 **read as follows:**

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94
95 **§ 262.14 Conditions for exemption for a very small quantity generator.**

96
97 (a) Provided that the very small quantity generator meets all the conditions for exemption listed in this
98 section, hazardous waste generated by the very small quantity generator is not subject to the
99 requirements of Parts 262 (except §§ 262.9-262.14 and 262.43) through 268, ~~and~~ 100, and the
100 notification requirements of Part 99 of these regulations, and the very small quantity generator may

101 accumulate hazardous waste on site without complying with such requirements. VSQGs generating 3
102 gallons or more of F001, F002, F004, or F005 hazardous waste in a calendar year must ~~also still~~ comply
103 with the Part 99 notification requirements and with the requirements of § 262.18. The conditions for
104 exemption are as follows:

105 *****

106
107
108 (5) A very small quantity generator that accumulates hazardous waste in amounts less than or equal
109 to the limits in paragraphs (a)(3) and (4) of this section must either treat its hazardous waste in an on-
110 site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if
111 located in the U.S., is:

112 *****

113
114 (ix)–(x) [Reserved]

115
116 (xi) For airbag waste, an airbag waste collection facility or a designated facility subject to the
117 requirements of § 261.4(j) of these regulations.

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119 *****

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123 **4) Section 8.94 (Statement of Basis for the Rulemaking Hearing of May 21, 2019) is added**
124 **to Part 8 of the Regulations to read as follows:**

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126
127 **Statement of Basis and Purpose**
128 **Rulemaking Hearing of May 21, 2019**

129
130 **8.94 Basis and Purpose.**

131
132 These amendments to 6 CCR 1007-3, Parts 260, 261 and 262 are made pursuant to the authority
133 granted to the Solid and Hazardous Waste Commission in § 25-15-302(2), C.R.S.

134
135 **Safe Management of Recalled Airbags**

136
137 These amendments to Parts 260, 261 and 262 of the Colorado Hazardous Waste Regulations (6
138 CCR 1007-3) correspond to and provide equivalency with the Environmental Protection Agency
139 (EPA) Safe Management of Recalled Airbags interim final rule published in the Federal Register
140 on November 30, 2018 {83 FR 61552-61563}, and which also became effective on November 30,
141 2018.

142
143 The U.S. Department of Transportation (DOT) announced a national recall in May 2015 for airbag
144 inflators manufactured by Takata due to a defect in their phase-stabilized ammonium nitrate
145 (PSAN) propellant, which has resulted in fifteen deaths and at least 250 injuries in the U.S. as of
146 August 2018. EPA issued the November 30, 2018 interim final rule in response to the urgent
147 public health issue posed by recalled Takata airbag inflators still installed in vehicles. These
148 airbag inflator recalls constitute the largest automotive recall in U.S. history, with 19 vehicle
149 manufacturers affected and approximately 65-70 million airbag inflators scheduled to be recalled
150 by December 2019. Of these affected airbag inflators, 50 million inflators in an estimated 37

151 million vehicles were recalled as of August 2018 and the remaining inflators will be recalled by
152 December 2019.

153
154 The November 30, 2018 federal rule facilitates a more expedited removal of the defective Takata
155 airbag inflators from vehicles by dealerships, salvage yards and other locations for safe and
156 environmentally sound disposal by exempting the collection of airbag waste (airbag modules and
157 airbag inflators) from hazardous waste requirements so long as certain conditions are met. This
158 rule is intended to assist the automobile dealers and other entities in their handling of the airbags,
159 and ensure delivery of the airbags to facilities that can more expertly manage these airbags in
160 order to accelerate the recall.

161 These amendments to 6 CCR 1007-3, Parts 260, 261 and 262 provide a conditional exemption
162 for airbag waste (i.e., airbag modules and airbag inflators) that exempt the collection of the airbag
163 waste from hazardous waste requirements, so long as certain requirements are met. The
164 amendments being adopted as part of this rulemaking include the following:

165
166 1) Section 260.10 (Definitions) of the Colorado Hazardous Waste Regulations is being
167 amended to add definitions for "Airbag", "Airbag waste collection facility", and "Airbag waste
168 handler".

169
170 2) Section 261.4 (Exclusions) is being amended by reserving paragraphs (h) and (i), and
171 adding the requirements for the conditional exemption for airbag waste as paragraph (j). To
172 qualify for the conditional exemption, airbag handlers and transporters are required to comply
173 with the following requirements:

174 A) The airbag waste is subject to an accumulation quantity limit of 250 airbag modules or
175 airbag inflators, and an accumulation time limit 180 days;

176 B) All airbag waste must be packaged in containers designed to address the risk posed
177 by the airbag waste, and labeled: "Airbag Waste - Do Not Reuse";

178 C) The airbag waste must be sent directly to either an airbag waste collection facility or to
179 a designed TSD facility;

180 D) The transport of the airbag waste must comply with all applicable U.S. Department of
181 Transportation regulations in 49 CFR Parts 171 through 180; and

182 E) The airbag waste handler must maintain records of all off-site shipments of airbag
183 waste and all confirmations of receipt from the receiving facility for a period of 3 years.

184
185 3) Section 262.14 (Conditions for exemption for a very small quantity generator) is being
186 revised to allow VSQGs to manage their airbag waste under the new conditional exemption.
187 This amendment is to encourage automobile dealerships to send their airbag waste to an
188 airbag collection facility rather than to a municipal solid waste landfill,

189
190 In accordance with § 261.4(j)(2), once the airbag waste arrives at an airbag waste collection
191 facility or designated facility, the waste becomes subject to all applicable hazardous waste
192 regulations, and the facility receiving the airbag waste is considered the hazardous waste
193 generator and must comply with Part 262 of the regulations. Pursuant to the requirements of
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199 § 261.4(j)(3), reuse in vehicles of defective airbag modules or defective airbag inflators subject to
200 a recall under the National Highway Traffic Safety Administration is considered sham recycling
201 and prohibited under 6 CCR 1007-3, Part 261.2(g).

202
203 Because these amendments eliminate specific hazardous waste requirements that would
204 otherwise apply to airbag waste (airbag modules and airbag inflators), these provisions are less
205 stringent than existing regulations, and Colorado is not required to adopt them. However, the
206 Division believes that adoption of these optional provisions will encourage and facilitate the
207 expedited removal of dangerously defective Takata airbag inflators from vehicles and prevent the
208 defective airbag inflators from being reused, while maintaining protection of human health and the
209 environment during airbag waste collection, storage and disposal.