

## **NEWMOA Hazardous Waste Conference Call January 12, 2016**

**Topic: “Intentional deployment of auto air bags under RCRA, in light of the massive recall by Takata: EPA & state views”**

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NEWMOA hazardous waste conference call

Vermont lead/Massachusetts note-taker

**Participants:** CT DEEP (7 people); Mass DEP (6 people); NH DES (9 people); NJ DEP (2 people); NYS DEC (21 people); RI DEM (1 person); VT DEC (6 person); EPA HQ (8 people); EPA Region 1 (3 people); EPA Region 2 (2 people); NEWMOA (1 person)

### **Introduction**

EPA Headquarters (HQ) has been working with the U.S. Department of Transportation (DOT) on the Takata airbag recall. They are interested in knowing how states regulate airbags (both recalled and non-recalled). Pursuant to a preservation order between DOT and Takata, recalled airbags have to go from dealerships (intact, as evidence) to Takata. An issue that EPA will be investigating is whether the recalled airbags are a discarded material. EPA considers airbags to be likely a reactive HW; may also be hazardous for ignitability. Questions arose on the whether the airbags might fall under the hazardous waste sample exemption. DOT hasn’t yet made a determination on the explosive class of airbags. States suggested that they are a Class 9 (Miscellaneous Dangerous Goods) at a minimum.

### **State Responses to Questions**

**1. How does your state regulate un-deployed airbags? If as hazardous waste, under just the reactivity characteristic or do listings also apply in some cases (e.g., Sodium azide, P105)?**

- VT: considers un-deployed airbags to be a reactive hazardous waste.
- CT: considers them to be a reactive hazardous waste; not ignitable and not P105 (sodium azide not the sole active ingredient).
- MA: encourages generators to ship off-site for disposal as a hazardous waste (D003), but also provides BMPs for deploying air bags in fact sheet - <http://www.mass.gov/eea/docs/dep/recycle/hazardous/vehcrush.pdf>. Un-deployed airbags cannot be put in the trash.
- NH: not much written guidance, but considers discard airbags to be a D003 hazardous waste. Ignitability characteristic may also apply. Generators should ship airbags off-site on a hazardous waste manifest for disposal. NH DES has a car crushing fact sheet developed by its Greenyards Program that recommends removing airbags prior to crushing; but the Program has not seen many removed.
- NJ: has no best management practices (BMP)/policy for airbags but would consider them to be a D003 HW. Would exempt airbags/airbag parts that are re-sold or credited by the manufacturer. [EPA noted that some states do not allow airbags to be resold/reused.]
- NY: considers them also possibly to be D001. Does not consider deployed airbags to be hazardous waste and encourages recycling of the remaining components.
- RI: considers them to be a reactive hazardous waste.

## **2. How does your state view intentional deployment of air bags by facilities like car dealerships or salvage yards?**

- VT: considers deployment to be a treatment activity that would require a permit (or possibly as generator treatment in containers IF the conditions of VHWMR 7- 502(o) are met).
- CT: has evaluated this topic but made no formal interpretation. CT encourages salvage yards and dealers to ship airbags off-site as a hazardous waste. Not sure to what extent dealers/scrap yards may be deploying airbags, but if they are, CT would have concerns regarding how it is being done.
- MA: can be done inside of vehicle prior to crushing per fact sheet (see link above).
- NH: considers it hazardous waste treatment; fact sheet recommends removal prior to vehicle crushing.
- NJ: would allow deployment as generator treatment as long as emission thresholds are not exceeded.
- NY: may be exempt treatment if the scrap metal in the airbag is recycled and with prior notification to NYDEC. Generators should follow manufacturer's instructions when deploying. NY recommends removing deployed airbag before vehicle is crushed. A hazardous waste/hazardous waste treatment if not the airbag metal is not recycled.
- RI: allows as generator treatment in tanks and containers; does not consider airbag canister to be a container, however. Generator must notify and provide description of protocol for deploying the airbags

## **3. Do you concur with the EPA Region 1 position that deployment can be considered generator treatment in a "container" (with the airbag cylinder functioning as the container)?**

VT: does not concur. Their understanding is that the primary function of the cylinder in an airbag assembly is to direct deployment of the airbag – it is not designed to contain airbag constituents.

CT: has treatment in container requirements that are more stringent than EPA’s (e.g., treatment container must contain dust/emissions) that would most likely preclude allowing deployment with the airbag cylinder functioning as the container.

MA: moot, MA does not have the treatment in containers and tanks exemption.

NH: does not concur with allowing airbag deployment with the airbag cylinder functioning as the container.

NJ: would consider it emptying of a unit to render non-hazardous; allowable generator treatment.

NY: has not fully evaluated the interpretation but believes it may be helpful in instances where treatment may be required.

RI: does not concur.

**4. Have you received requests from auto dealerships or other types of businesses seeking approval for on-site air bag deployment? If so, have you approved these requests? Why/why not?**

VT: received such a request from an auto dealership (*See 29-MAY-2015 Carbone document in the call materials*). Upon review of an “Information Bulletin” (*See Honda Bulletin in the call materials*) provided to the dealership by Honda Corporation, Vermont recommended that the dealership follow the “Best Practices” outlined in the bulletin and contract with hazardous waste transporter to “manage the disposal of un-deployed SRS devices” (*See 23-JUN-2015 SS Email in the call materials*)

CT, MA, NH, NJ and RI: not aware of any.

NY: yes.

**5. If you approved deployment, did you require that specific conditions be met?**

VT, CT, MA, NH, NJ and RI: have not approved on-site deployment

NY: follow manufacturer instructions; notify NYDEC prior to deployment

**6. Do you know if deployment of some types of airbags poses a greater safety threat than others?**

States not aware of any other than the recalled Takata airbags due to shrapnel hazard.

**7. Do you concur with the EPA 1992 RO document (*See Un-deployed Airbags RO 11666 in the call materials*), which essentially states (RO Summary Statement): “Un-deployed airbag inflators that fail a quality control program are off-specification CCPs and are not solid wastes when they are reclaimed.” Are you aware of airbags being sent for reclamation?**

VT: Hazardous Waste Management Regulations do not include an analog to 40 CFR 261.2 / Table 1. As such, this is not an option in Vermont.

CT: has no CCP exemption, so the RO does not apply in CT.

MA: does not disagree with interpretation; not aware of any airbags being sent for reclamation.

NH: does not concur with RO as it applies to dealerships; not aware of any airbags being sent for reclamation.

NJ: does not disagree with interpretation; airbags may not be regulated at all because they have value.

NY: yes, but only for airbags that have not already been sold.

RI: yes at manufacturing facility; not if in vehicle and already sold.