

CALIFORNIA ENVIRONMENTAL QUALITY ACT
NOTICE OF EXEMPTION

To: Office of Planning and Research
State Clearinghouse
P.O. Box 3044, 1400 Tenth Street,
Room 212
Sacramento, CA 95812-3044

From: Department of Toxic Substances
Control
Permitting Division
1001 "I" Street, 11th Floor
Sacramento, CA 95812-0806

Project Title: Rulemaking of Conditional Exemption for Undeployed Airbags Management

Project Location: Statewide

County: Countywide

Project Applicant: Department of Toxic Substances Control

Approval Action Under Consideration by DTSC: Regulations

Statutory Authority: California Health and Safety Code, Division 20, Chapter 6.5

Project Description: The California Department of Toxic Substances Control (DTSC) proposes for the approval of the second readoption of the emergency rulemaking to conditionally exempt undeployed airbags that are discarded (airbag waste) under California Code of Regulations, title 22, division 4.5, chapter 11, section 66261.4, provided generators of airbag waste (airbag waste handlers) meet the conditions of the exemption. The regulations would require the airbag waste handler to comply with the conditions listed under the exemption to allow for undeployed airbag waste to not be subject to hazardous waste management standards until the waste is received at a designated facility. These conditions require that the airbag waste handler manage the airbag waste in a manner that addresses the risks posed by the waste, as undeployed airbag waste can exhibit the hazardous waste characteristics of ignitability and/or reactivity. The conditional exemption moves the point of hazardous waste generation from the airbag waste handler to the designated facility, which provides economic and regulatory relief for airbag waste handlers to encourage them to expeditiously transport airbag waste to a designated facility designed to handle these hazardous wastes.

To be conditionally exempt from hazardous waste requirements, airbag waste handlers shall:

- Accumulate no more than 250 airbag modules and airbag inflators (combined) at one time,
- Accumulate airbag waste for no longer than 180 days,

- Package airbag waste in a container designated to address the risk posed by the airbag waste,
- Properly label airbag waste,
- Send airbag waste directly to an authorized airbag collection facility or a designated facility,
- Ensure airbag waste shipments comply with all applicable U.S. Department of Transportation (DOT) requirements, and
- Maintain records of all offsite shipments of airbag waste.

Background: The 2014 Takata airbag recall constituted the largest automotive recall in U.S. history, with approximately 65-70 million airbag inflators recalled. In response, DOT issued a Preservation Order in 2015 which required Takata to finance the recall, which includes transportation and storage of all recalled airbag inflators removed from vehicles. In 2018, Takata filed for bankruptcy and could no longer finance the recall. Thereafter, DOT amended the Preservation Order requiring Takata to only preserve five percent of the airbag inflators collected. As a result of these changes, entities such as auto manufacturers and auto dealers removing the recalled airbags are required to either pay Takata to receive the recalled inflators or to send the recalled inflators as hazardous waste to a designated facility for disposal.

In response to DOT's Preservation Order, the U.S. Environmental Protection Agency issued the Interim Final Rule: Safe Management of Recalled Airbags (interim final rule) on November 30, 2018, which provides a conditional exemption for airbag waste in the Code of Federal Regulations, title 40, part 261, section 261.4(j). The goal of the interim final rule is to address the immediate public health and safety threat posed by recalled airbags by facilitating expedited management and transportation of recalled Takata airbags and inflators from vehicles for a safe and environmentally sound disposal. The recalled airbag inflators are an ongoing threat to public safety and have resulted in at least 26 fatalities and 400 alleged injuries in the United States as of July 2023. DTSC adopted the U.S. EPA's Interim Final Rule through emergency rulemaking, which effective from March 15, 2024, and expired on September 12, 2024. DTSC readopted the emergency regulations for an additional 90 days which are effective from September 5, 2024, to December 5, 2024. DTSC's emergency rule for undeployed airbags mirrors that of U.S. EPA's Interim Final Rule.

Project Activities: For a second additional 90 days, the rulemaking will re-adopt current emergency regulations for a conditional exemption for airbag waste within the California Code of Regulations, title 22, division 4.5, chapter 11, section 66261.4 provided that the airbag waste handlers meet the conditions of the exemption.

Name of Public Agency Approving Project: Department of Toxic Substances Control

Name of Person or Agency Carrying Out Project: Department of Toxic Substances Control

Exempt Status: Categorical Exemption: Categorical Exemption: Cal. Code Regs., tit. 14, § 15308. Actions by Regulatory Agencies for Protection of the Environment.

Reasons Why Project is Exempt: DTSC has determined none of the exceptions to the categorical exemptions apply to this project, as described in Public Resources Code Section 21084(c), (d), and (e), and California Code of Regulations, title 14, section 15300.2. DTSC has determined that the proposed regulatory amendments are actions taken by DTSC to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

The administrative record for this project is available to the public by appointment at the following location:

Department of Toxic Substances Control
Hazardous Waste Management Program
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Contact Person	Contact Title	Phone Number
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Approver's Signature:

Date:

Ellen L. Haertle

October 11, 2024

Approver's Name	Approver's Title	Approver's Phone Number
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Date Received for Filing and Posting at OPR: