



## Request for a Variance from One or More Specific Provisions of the Hazardous Waste Management Regulations

K.A.R. 28-31-13

### Applicant Information

Name of Organization/Facility Kansas Division of Vehicles, Department of Revenue

Contact Name David Harper

Position/Title Director of Vehicles

Location Address 300 SW 29<sup>th</sup> Street, Topeka, KS 66611

Mailing Address (if different from location)

Phone (785) 296-3601 E-mail: David.Harper@ks.gov

### Request

We request that persons in Kansas who generate airbag waste (e.g., automobile dealers, salvage vendors) be granted a variance which would exempt the management of airbag waste from specific Kansas hazardous waste requirements if certain conditions are met.

- 1) Any variance conforms with Environmental Protection Agency standards set out in 83 FR Sec. 61552-61563 (published 11/30/2018);
- 2) Such variance would still require that RCRA-designated facility dispose of any State based removal of airbag disposal components.
- 3) That this State variance be limited in term and be contemporaneous with the EPA rules duration set out in section 1 above.

To expedite the removal of defective airbags, the United States Environmental Protection Agency (EPA) published the November 30, 2018, interim final rule, *Safe Management of Recalled Airbags* (airbag rule).<sup>1</sup> In the interest of public safety, the Kansas Department of Revenue, Division of Vehicles requests that persons in Kansas that are generating airbag waste be allowed to manage airbag waste in a manner similar to the conditions of the EPA airbag rule.

### Reason for Variance Request

In the interest of the public safety of the citizens of Kansas, we request the variance described above on behalf of Kansas automobile dealers and salvage vendors and any other persons that generate airbag waste. This variance would expedite the continued removal and management of recalled airbag waste.

The national recall of Takata airbags affected 19 vehicle manufacturers and approximately 65 to 70 million airbag inflators, scheduled to be recalled by December 2019.<sup>2</sup> At least 13 people in the United States (U.S.) have died from injuries inflicted by

defective Takata airbag inflators.<sup>3</sup> In addition, hundreds of injuries from defective Takata airbag inflators have been confirmed across 27 US states and territories.<sup>4</sup>

In a November 3, 2015 Coordinated Remedy Order, the U.S. Department of Transportation, National Highway Traffic Safety Administration stated that it was critical to accelerate the rate of the recalls because the tendency for rupture of a recalled Takata airbag inflator “increases with the age of the inflator, and increases even more when the vehicle has been exposed to consistent long-term HAH [high absolute humidity] conditions.” The Order emphasized that the danger increases with each passing day.<sup>5</sup>

In response to this serious public safety issue posed by recalled Takata airbag inflators, the EPA published the November 30, 2018 airbag rule. The airbag rule exempts the collection of airbag waste from specific hazardous waste requirements if certain conditions are met.<sup>6</sup> The exemption applies to all airbag waste, including Takata, non-Takata, recalled, and unrecalled airbag waste.

In the preamble of the airbag rule, EPA reported that the management of hazardous airbag waste would likely result in vehicle dealers and salvage vendors generating enough quantities of hazardous waste to become subject to increased regulations associated with higher hazardous waste generator categories, “for which dealers and salvage vendors typically have not had experience, familiarity, or expertise”.<sup>7</sup> Subjecting these entities to full hazardous waste generator requirements might result in the slowdown, rather than the acceleration of, the recall effort, which would pose greater risk to human health and the environment. To address these issues, the airbag rule was published to facilitate “the urgent removal of dangerously defective Takata airbag inflators from vehicles, and by preventing defective Takata airbag inflators from scrap vehicles from being reused, while maintaining protection of human health and the environment during airbag waste collection, storage and disposal.”<sup>8</sup>

This variance is necessary to facilitate the timely removal of defective airbags, which pose a danger to the citizens of Kansas.



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David Harper, Director of Vehicles

3.26.2019

<sup>1</sup> Environmental Protection Agency, *Safe Management of Recalled Airbags*, 83 Fed. Reg. 61552, November 30, 2018.

<sup>2</sup> *Ibid.*, 61555.

<sup>3</sup> The Independent Monitor of Takata and the Coordinated Remedy Program, *The State of the Takata Airbag Recalls*, November 15, 2017, page 1.

<sup>4</sup> *Ibid.*, 9.

<sup>5</sup> Environmental Protection Agency, *Safe Management of Recalled Airbags*, 83 Fed. Reg. 61553, November 30, 2018.

<sup>6</sup> *Ibid.*, 61552.

<sup>7</sup> *Ibid.*, 61557.

<sup>8</sup> *Ibid.*, 61553.