



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN 23 2017

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE  
  
NOW THE  
OFFICE OF LAND AND  
EMERGENCY MANAGEMENT

**MEMORANDUM**

**SUBJECT:** Recalled Takata Airbag Inflators

**FROM:** Barnes Johnson, Director  
Office of Resource Conservation and Recovery

**TO:** Regional RCRA Division Directors  
Regional Enforcement Division Directors  
Regional RCRA Branch Chiefs

A handwritten signature in black ink that reads "Barnes Johnson".

This memorandum discusses how the Resource Conservation and Recovery Act (RCRA) regulations apply to recalled Takata airbag inflators that are subject to the 2015 Preservation Order issued by the U.S. Department of Transportation (DOT).<sup>1</sup> These airbag inflators have been recalled as a result of defects that may cause them to deploy improperly. The U.S. Environmental Protection Agency's (EPA's) Office of Resource Conservation and Recovery (ORCR) has collaborated internally with other EPA offices including the Office of General Counsel, the Office of Enforcement and Compliance Assurance, Region 5, and Region 7. ORCR has also collaborated externally with DOT, the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATF), the Michigan Department of Environmental Quality, and the Missouri Department of Natural Resources (MDNR) to gather information and consider how the RCRA hazardous waste regulations may apply.

**EPA Finding**

Based on our understanding of the facts, we have concluded that the recalled Takata airbag inflators are not subject to RCRA Subtitle C regulatory requirements while they are being held under the 2015 DOT Preservation Order. This is because EPA does not consider airbag inflators or other explosives to be "discarded" and therefore subject to the hazardous waste regulations while they are being stored pending judicial proceedings or investigations.<sup>2, 3</sup> At the point the inflators are released from the DOT Preservation Order and other legal action related to the recall, the recalled airbag inflators would be considered solid waste and subject to a hazardous waste determination and any applicable RCRA

<sup>1</sup> See the [DOT's Preservation Order](#).

<sup>2</sup> U.S. EPA, [Commercial Chemical Products Used in Air Bags – Effect on Recycle of Ferrous Scrap from Automobiles](#), January 16, 1985, RCRA Online Number 12363.

<sup>3</sup> U.S. EPA, [Regulatory Status of Undeployed Automotive Airbag Inflators](#), April 23, 1992, RCRA Online Number 11666.