



State of Oregon Department of Environmental Quality

Draft Fiscal Impact Statement

Safe Management of Recalled Airbags

[83 FR 61552-61563](#), Federal Rulemaking Nov. 30, 2018, effective Nov. 30, 2018

Introduction

The Oregon Department of Environmental Quality invites public input on proposed permanent rule amendments to chapter 340 of the Oregon Administrative Rules.

The rule facilitates an expedited removal of defective airbag inflators from vehicles by dealerships, salvage yards and other locations for safe and environmentally sound disposal. This rule exempts the collection of airbag waste from hazardous waste requirements, so long as conditions are met.

Under this rule, “airbag waste handlers” are entities that generate airbag waste by removing airbag modules and inflators (i.e. airbag waste) from automobiles. Entities include automobile dealerships, automotive salvage and scrap yards, independent repair facilities, and collision centers.

This rule provides a conditional exclusion under the Code of Federal Regulations, specifically 40 CFR 261.4, for the alternative management of airbags, allowing airbag handlers to decide if they want to manage them as hazardous waste.

If not managed under this new exclusion, the undeployed airbags are considered hazardous waste and must be managed under the Resource Conservation and Recovery Act (RCRA) when discarded. Airbag inflators and airbag modules are typically designated as reactive (D003) or ignitable (D001) hazardous wastes due to the pressurized propellant contained in the inflator.

This rule is less stringent than existing federal rules. Therefore, authorized state adoption is optional.

Fee Analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

DEQ assumes the fiscal and economic impacts identified in the federal rulemaking are accurate and apply to Oregon facilities as determined during federal rulemaking.

DEQ is unable to quantify any additional fiscal impacts at this time because there is no known additional fees or costs associated with the management and disposal of undeployed and recalled airbags in Oregon.

Fiscal and Economic Impact

At the national level, adding the Safe Management of Recalled Airbags rule ensures safe handling, while ensuring the airbags are transported to an appropriate destination facility where they will be correctly managed as hazardous waste.

Statement of Cost of Compliance

DEQ

DEQ expects minor impacts for staff training and performing additional outreach to those eligible businesses through the hazardous waste technical assistance program and enforcement guidance. Some airbag handlers will have costs to cover additional management, training, and record keeping requirements.

Local, state and federal agencies

DEQ anticipates the proposed rule will have no adverse fiscal or economic impacts on local, state or other federal agencies, as the rule adds another option to manage waste aerosol cans.

EPA

EPA estimated the national total cost of inflator management and disposal under baseline scenarios and the post-rule scenario. EPA found the post-rule scenario results in total cost savings of \$7.55 million (discounted at 7 percent) from 2019 to 2023 period relative to the baseline scenario, and total cost savings of \$56.9 million (discounted at 7 percent) relative to the generator scenario baseline over this same period. Exhibit ES-1 summarizes the total costs and cost savings for each scenario.¹

Public

DEQ identified no impacts to the public for this rule adoption.

Large and small businesses

A small business is one with 50 or fewer employees.

ORS 183.336 Cost of Compliance Effect on Small Businesses

1. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

¹ Source: <https://www.regulations.gov/contentStreamer?documentId=EPA-HQ-OLEM-2018-0646-0023&contentType=pdf>

DEQ reviewed its current list of conditionally excluded, small and large quantity generators and found this rule may affect approximately [TBD – awaiting data] listed active Oregon generators based on 2020 reporting.

EPA stated that the recall of millions of Takata airbag inflators has resulted in a vast number of defective airbag inflators requiring removal and replacement. Since a car's warranty covers this work, the service is generally done at a franchised auto dealership with a repair shop onsite. The dealerships performing this recall work constitute the majority of the facilities that will be impacted by this rule.² These dealerships fall under NAICS code 441: Motor Vehicle and Parts Dealers.

2. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

The proposed rule does not require any additional activities.

3. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

The proposed rule will not require any additional resources, such as equipment, labor, or supplies. Businesses currently generating deployed airbags dispose of the components as non-hazardous waste. Dealerships, salvage yards or other locations managing airbags under this exclusion are managing them as non-hazardous waste. However, once the collection facility receives the airbags, additional RCRA hazardous waste regulations apply.

4. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ included small business representatives on the hazardous waste rulemaking advisory committee (RAC) to help advise DEQ on the potential cost, if any, of compliance for small businesses. DEQ will also provide rulemaking notice to all manufacturers registered with Oregon DEQ as a small and large quantity generators. These generator groups include small businesses.

² Source: <https://www.regulations.gov/document?D=EPA-HQ-OLEM-2018-0646-0023>

Documents relied on for fiscal and economic impact

Document title	Document location
Federal Register entries for the incorporated rule	Link EPA Final Rule: https://www.govinfo.gov/content/pkg/FR-2018-11-30/pdf/2018-25892.pdf
Federal: <i>Economic Assessment of the Safe Management of Recalled Airbags Interim Final Rule</i>	Link EPA Fiscal Impact Analysis: https://www.regulations.gov/document/EPA-HQ-OLEM-2018-0646-0023
2020 Oregon Annual Hazardous Waste Reporting	Oregon Department of Environmental Quality Hazardous Waste Program 700 NE Multnomah St., Suite 600 Portland, OR 97232
Oregon Department of Employment 2020 data	Employment Department 875 Union St. NE Salem, OR 97311

Advisory committee fiscal review

DEQ appointed an advisory committee.

As ORS 183.33 requires, DEQ will ask for the committee's recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 to reduce that impact.

The committee will review the draft fiscal and economic impact statement and document its recommendations in the final approved meeting summary in June 2021.

The committee will determine if the proposed rules would or would not have a significant adverse impact on small businesses in Oregon.

If a significant impact is identified by the committee, as ORS 183.333 and 183.540 require, the committee will consider how DEQ could reduce the rules' fiscal impact on small business by:

- Establishing differing compliance or reporting requirements or time tables for small business;
- Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business;
- Utilizing objective criteria for standards;
- Exempting small businesses from any or all requirements of the rule; or

- Otherwise establishing less intrusive or less costly alternatives applicable to small business.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rules would have no effect on the development costs because the proposed rule only affects businesses under the hazardous waste regulations.

Alternative formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.

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