



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

DEVAL L. PATRICK  
Governor

TIMOTHY P. MURRAY  
Lieutenant Governor

IAN A. BOWLES  
Secretary

LAURIE BURT  
Commissioner

August 25, 2010

*[Note: This letter was addressed to all affected companies.]*

Dear Vehicle Manufacturer:

Thank you for submitting your 2009 certification form in compliance with Massachusetts Department of Environmental Protection (MassDEP) regulations on mercury vehicle switch management (310 CMR 70.00 and 74.00). According to our records, this certification included a statement that your company is participating in the plan for collecting and recycling mercury switches removed from end-of-life vehicles that was submitted to MassDEP by End of Life Vehicle Solutions (ELVS) in December 2006 and amended in September 2008.

Based on the information received from you and other ELVS participants, MassDEP has determined that the mercury switch collection program implemented by ELVS failed to achieve the required target capture rate of 90% in calendar year 2009. I have enclosed a copy of the determination, which we have posted on our website at: <http://www.mass.gov/dep/recycle/hazardous/autobiz.htm#hg>

Under the provisions of 310 CMR 74.06 (2), your company must either individually or as part of a group of vehicle manufacturers, submit a revised plan within 30 days of your receipt of this letter. This revised plan must meet the requirements of 310 CMR 74.06 (1), which include (among other things) "a program which is designed to achieve a mercury-added vehicle switch capture rate of at least 90%" and a "financing system through which the total cost of removal, collection, recordkeeping and recovery of mercury-added vehicle switches shall be borne by the vehicle manufacturer." Such financing system shall include, but is not limited to, a payment of \$3 for every mercury-added vehicle switch removed by a vehicle recycler or scrap recycling facility, and may include other promotional and financial incentives for switch recycling.

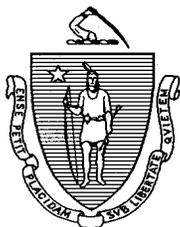
Please contact Jordan Macy at [jordan.macy@state.ma.us](mailto:jordan.macy@state.ma.us) or 617-292-5805 if you have any questions about this requirement.

Sincerely,

*Signature on Original*

Greg Cooper  
Deputy Division Director – Consumer Programs  
Bureau of Waste Prevention

cc: Brian Rippon, ELVS  
David Petrillo, Auto Recyclers of Massachusetts



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**DETERMINATION OF CALENDAR YEAR 2009 MERCURY VEHICLE SWITCH  
CAPTURE RATE**

**Background**

The Massachusetts Mercury Management Act (Chapter 190 of the Acts of 2006) requires vehicle manufacturers to collect and recycle mercury vehicle switches removed from end-of-life vehicles by vehicle recyclers and scrap recycling facilities. These programs can operate without providing a financial incentive to vehicle recyclers and scrap recycling facilities (beyond covering collection and recycling costs) as long as target capture rates that were established by the statute are met. If the target capture rate for a particular calendar year is not met, manufacturers must revise their plan(s) to include specific financial incentives.

On July 9, 2008, MassDEP issued a determination that vehicle switch recycling in calendar year 2007 did not meet the target capture rate established by the statute for that year, 50%, and required the vehicle manufacturers to submit a revised plan that included financial incentives for the recovery of these switches. The manufacturers submitted a revised plan through End of Life Vehicles Solutions, Inc. ("ELVS") in September 2008, which included a commitment to pay vehicle recyclers \$3 for each mercury switch collected through their program. The revised plan was implemented in September 2008.

MassDEP did not issue a recycling rate determination for calendar year 2008, to allow the \$3/switch payment to be in effect for a full calendar year.

**Determination of 2009 Mercury Vehicle Switch Capture Rate**

MassDEP's mercury vehicle switch regulation, which was promulgated on December 28, 2007 and amended in August 2009, established that 71,000 switches were expected to be available for recycling from end-of-life vehicles in 2009 [310 CMR 74.07(4)]. The number of switches was based on modeling submitted by End of Life Vehicle Solutions (ELVS).

For calendar year 2009, 310 CMR 74.07(4) requires that 90% (or 63,900) or more of the available switches must be collected and recycled by vehicle manufacturers in order to avoid having to revise their collection plan. Vehicle manufacturers' annual certifications to MassDEP indicated that 34,718 mercury switches were collected in 2009, a capture rate of 49 percent for that calendar year.

This information is available in alternate format. Call Donald M. Gomes, ADA Coordinator at 617-556-1057. TDD# 1-866-539-7622 or 1-617-574-6868.

MassDEP on the World Wide Web: <http://www.mass.gov/dep>

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Based on this data, MassDEP has determined that the mercury vehicle switch collection and recycling program conducted by ELVS on behalf of vehicle manufacturers failed to achieve the target capture rate of 90% required for 2009.

**Implications of This Determination**

As required by 310 CMR 74.06 and 310 CMR 74.07(4), vehicle manufacturers, either individually or as a group, must file a revised plan for collecting and recycling mercury switches removed from end-of-life vehicles that includes “a program which is designed to achieve a mercury-added vehicle switch capture rate of at least 90%” and, among other things, “a financing system through which the total cost of removal, collection, record keeping and recovery of mercury-added vehicle switches are borne by the vehicle manufacturer.” 310 CMR 74.06(1)(f) further requires that “Such financing system shall include, but not be limited to, a payment of \$3 for every mercury-added vehicle switch removed by a vehicle recycler or scrap recycling facility...”

MassDEP has notified vehicle manufacturers of this Determination and their obligation to submit a revised plan no later than thirty (30) days after they receive the Department’s notice.