



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

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February 19, 2013

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

Dear Vehicle Manufacturer:

Thank you for submitting your 2011 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).

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 2011. 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>

The previous plan revision, dated November 15, 2010 and sent by ELVS, contained new plan elements intended to improve the capture rate. Among these elements were:

1. An outreach program to Massachusetts vehicle recyclers to determine whether recyclers were actively processing vehicles, inform them that it is mandatory to pull switches, and provide incentives for participation by providing a one-time \$50 bonus to recyclers submitting their first-ever full bucket of switches by December 31, 2011.
2. A study of the make, model and year of vehicles processed in vehicle recycling yards and the number and location of mercury switches in these vehicles to measure processing activity in Massachusetts, quantify cross-border activity and propose revisions to the switch retirement model based on this information.

These elements were designed to improve the understanding of vehicle recycling operations and help determine if accurate information is being used in determining the capture rate. However, MassDEP is disappointed to determine that the recycling rate actually decreased from 49% in 2009 to 24% in 2011. In addition, the reported absolute number of switches recycled decreased from 34,718 switches in 2009 to 15,028 in 2011. MassDEP requests that ELVS document that the two elements noted above were completed and submit all relevant information to Sean Sylver, MassDEP, One Winter Street, Boston, MA 02108 or via email to [sean.sylver@state.ma.us](mailto:sean.sylver@state.ma.us).

Under the provisions of 310 CMR 74.06 (2), your company must individually, or as part of a group of vehicle manufacturers, submit a revised plan within 30 days of your receipt of this letter. The revised plan should reflect lessons learned from the plan elements outlined in the most recent (2010) revision and 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. For example a payment of \$5 for every mercury-added vehicle switch may be appropriate given the current capture rate.

Please contact Sean Sylver at [sean.sylver@state.ma.us](mailto:sean.sylver@state.ma.us) or 617-292-5747 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  
Date subject to approval

## **DETERMINATION OF CALENDAR YEAR 2011 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.

In August of 2010, MassDEP issued a recycling rate determination for calendar year 2009. The rate was 49%, which did not meet the 90% target capture rate established by the statute for that year, and required vehicle manufacturers to submit a revised plan that included financial incentives for the recovery of mercury switches. The manufacturers submitted a revised plan through End of Life Vehicles Solutions, Inc. ("ELVS") in November 2010, including several new plan elements: an outreach program, a one-time \$50 bonus for recyclers submitting their first full bucket of switches by the close of 2011, and a study of the make, model and year of vehicles processed at Massachusetts recycling yards and the number and location of mercury switches in these vehicles to better inform the available number of switches used in the recycling rate determination.

MassDEP did not issue a recycling rate determination for calendar year 2010, to allow for a complete year of implementation and collection results from the revised plan.

### **Determination of 2011 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 63,000 switches were expected to be available for recycling from end-of-life vehicles in 2011 [310 CMR 74.07(4)]. The number of switches was based on modeling submitted by End of Life Vehicle Solutions (ELVS).

For calendar year 2011, 310 CMR 74.07(4) requires that 90% (or 56,700) or more of the available switches be collected and recycled by vehicle manufacturers in order to avoid having to revise their collection plan. MassDEP mailed pre-populated 2011 certification forms to 233 known vehicle recyclers and received certifications from 108 active and not-applicable vehicle recyclers. Vehicle manufacturers' annual certifications to MassDEP indicate 15,028 mercury switches were collected in 2011, a capture rate of 24% for that calendar year.

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 2011.

### **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 February 2013 notice.