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Mercury Convenience Switch Collection Program

A Report to the 81st Legislature

Introduction

Pursuant to House Bill 2793, passed by the Texas Legislature during the 79th Regular Session, the Texas Commission on Environmental Quality (TCEQ) has coordinated the development of a voluntary, convenience-switch collection program in the state of Texas.

HB 2793 was passed by both the Texas House and the Texas Senate on May 29, 2005. Formal implementation of this program began on August 29, 2005, the date on which HB 2793 was mandated to take effect.

This report, for the year ending December 31, 2008, is the third annual report published according to the requirements of Section 375.151 of the Texas Health and Safety Code.

Executive Summary

Pursuant to House Bill (HB) 2793, the TCEQ has helped to coordinate the implementation of a convenience-switch collection program for the state of Texas. To facilitate the implementation of the requirements under HB 2793 and other programs throughout the U.S., the automobile manufacturers created a not-for-profit corporation called End of Life Vehicle Solutions (ELVS).

Participation in the program is voluntary for both vehicle recyclers and metal-recycling facilities. While not required to participate in the

convenience switch collection program, dismantlers participating in the AirCheck program are required to remove mercury switches and comply with state and federal laws applicable to the management of mercury switches. Despite participation status, the legislation includes specific mandates for both automobile manufacturers and the TCEQ.

In addition to identifying facilities that would qualify to participate in the collection program, HB 2793 also mandates that the TCEQ provide regulatory incentives to those facilities that participate in the voluntary program. Pursuant to the legislation, the TCEQ has met these requirements through existing programs, which already offer these incentives to participating facilities.

On-site technical assistance is available to vehicle recyclers through the Small Business and Local Government Assistance (SBLGA) Section's existing compliance assistance program. This program allows small businesses to contact SBLGA to request a free, confidential, site visit to assess potential compliance concerns at the facility. Through this program, participating small businesses also receive guidance to address any concerns identified during the visit.

As an additional incentive, a participating facility can qualify for an adjustment to its compliance-history classification. Because HB 2793 requires that any compliance-history adjustments be provided to qualifying businesses through existing programs, the TCEQ provides these incentives "based on: (1) a [business's] compliance-history classification; and (2) any voluntary measures undertaken by the [business] to improve environmental quality."

Under these existing programs, the TCEQ provides regulatory incentives to entities with an average or high compliance-history classification through the Clean Texas program. Under Clean Texas, participating facilities without an environmental management system that make voluntary commitments to maintain environmental performance that is beyond minimum requirements can have their participation applied to their compliance history score as a *mitigating factor*.

The Legislature established the annual report from a participating vehicle recycler as the mechanism for potentially qualifying to receive regulatory incentives under HB 2793. A total of 84 facilities submitted annual reports. However, the requirements of the Clean Texas program allow

facilities to join the program throughout the year, depending on their compliance-history classification.

In conjunction with the voluntary convenience switch collection program, Section 2 of HB 2793 also mandated that the TCEQ “adopt rules for regulating a convenience switch...as universal waste under 30 TAC Section 335.261.” The TCEQ fulfilled this mandate by incorporating, by reference, existing federal rules that allow mercury-containing equipment, including convenience switches, to be managed as universal waste. Handlers of universal waste are subject to less stringent standards for reporting, storing, transporting, and collecting these wastes. By eliminating existing requirements for storing and shipping mercury convenience switches, this change to the rules amended provisions that might otherwise serve as obstacles for small businesses wishing to participate in the program.

The 84 facilities that submitted Annual Reporting Forms reported processing a total of 11,766 vehicles, and removing a total of 18,408 switches. In addition to these reports, ELVS reported the total number of switches it received from Texas facilities. According to ELVS, 37 facilities returned collection buckets containing convenience switches. These facilities returned 26,446 switches, accounting for an estimated 58.2 pounds of mercury.

Summary of the National Vehicle Mercury Switch Recycling Program

After a number of years of negotiations, the U.S. Environmental Protection Agency (EPA) and key industry stakeholders announced the formation of the National Vehicle Mercury Switch Recycling Program (NVMSRP) in August 2006. The national program, which is being implemented separately from programs already in place in a number of states, is aimed at facilitating the removal and collection of mercury convenience switches in states without preexisting programs.

Maximizing the removal and collection of mercury switches nationwide is a primary goal of this program. To support those efforts, a \$4 million fund has been established to reward dismantlers and recyclers participating in the collection program on a first-come, first-served basis. Participating facilities will be paid \$4 for each mercury convenience switch that is received for processing. These payments began in January 2007.

The program largely will be coordinated by End of Life Vehicle Solutions (ELVS), the not-for-profit corporation formed by the automobile manufacturers. Through this national program, ELVS will not only provide educational materials, it also will collect and recycle the convenience switches returned by participating facilities. In addition to convenience lighting assemblies, under the national program, ELVS will also accept ABS modules containing mercury switches, as well as the individual switch pellets removed from convenience lighting assemblies.

Although the national program has been implemented independent of the program mandated under HB 2793, vehicle recyclers and metal-recycling facilities in Texas are eligible to participate. Since the existing collection outlined in HB 2793 does not include financial incentives, Texas facilities will automatically receive the \$4 per switch payment promised under the terms of the national program. This is possible, in large part, because many of the key elements of the national and Texas programs are coordinated by the same entities.

Recommendations and Planned Next Steps

The TCEQ will continue to work with ELVS and representatives from the vehicle-recycling industry to improve the capture rate within the framework of the existing program.

Collection Rates and Participation

Table 1. Data from Annual Reports Submitted by Participating Facilities

	<i>2006</i>	<i>2007</i>	<i>2008</i>
Number of facilities submitting completed Annual Reporting Forms	6 facilities	34 facilities	84 facilities
Total reported number of eligible vehicles processed by facilities submitting completed Annual Reporting Forms	186 vehicles	23,868 vehicles	11,766 vehicles
Total reported number of convenience switches removed from eligible vehicles processed by facilities submitting completed Annual Reporting Forms	156 switches	11,696 switches	18,408 switches

To qualify for incentives provided by the TCEQ, facilities participating in the convenience-switch collection program are required to submit a report

documenting the number of convenience switches collected during the prior 12 months, and the total number of vehicles processed for recycling during that same period. The data included in Table 1 are a compilation of the information included on the reports submitted by participating facilities.

Table 2. Convenience-Switch Collection and Facility-Participation Data Submitted by ELVS

	2006	2007	2008
Number of Texas facilities returning collection buckets and convenience switches to ELVS for processing	7 facilities	58 facilities	37 facilities
Total reported number of mercury convenience switches processed by ELVS from facilities in Texas	2,050 switches	13,910 switches	26,446 switches
Estimated total weight of mercury removed from convenience switches returned by Texas facilities	4 lbs.	30.9 lbs.	58.2 lbs.

Pursuant to Texas Health and Safety Code Section 375.152, the manufacturers are required to report the total number of convenience switches recovered from Texas. Table 2 includes the number of mercury convenience switches returned to ELVS from facilities in Texas. Note: switch numbers vary between ELVS and the TCEQ because manufacturers do not return buckets to ELVS until the bucket is full.