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Mercury Convenience Switch Collection Program Implementation Report

A Report to the 82nd Texas Legislature



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Mercury Convenience Switch Collection Program

A Report to the 82nd Legislature

Introduction

Pursuant to House Bill (HB) 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 mercury switch reporting year beginning November 1, 2009, and ending October 31, 2010, is the fifth yearly report published according to the requirements of Section 375.151 of the Texas Health and Safety Code.

Executive Summary

Pursuant to 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 United States, the automobile manufacturers created a not-for-profit corporation called End of Life Vehicle Solutions (ELVS). The legislation includes specific mandates for both automobile manufacturers and the TCEQ.

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.

HB 2793 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 its 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.

Established by the Legislature, the annual report from a participating vehicle recycler serves as the mechanism for potentially qualifying to receive regulatory incentives under HB 2793. For the most recent reporting period, a total of 135 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 135 facilities that submitted the voluntary Annual Reporting Forms reported processing a total of 37,506 vehicles, and removing a total of

36,370 switches, an increase of more than 29 percent from the last reporting period.

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. The program is 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.

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 reports data that is voluntarily submitted by auto salvage facilities under the TCEQ mercury switch program. 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 reports submitted by participating facilities. The data documents a capture rate of 65 percent of mercury switches estimated to be available for removal in the reporting year from end-of-life vehicles.

| Year | Number of facilities | Number of eligible vehicles | Number of convenience switches removed |
|------|----------------------|-----------------------------|--|
| 2006 | 6 facilities | 186 vehicles | 156 switches |
| 2007 | 34 facilities | 23,868 vehicles | 11,696 switches |
| 2008 | 84 facilities | 11,776 vehicles | 18,408 switches |
| 2009 | 105 facilities | 29,248 vehicles | 24,944 switches |
| 2010 | 135 facilities | 37,506 vehicles | 36,370 switches |

Table 1- Data from Completed Annual Reports Submitted by Participating Facilities