

## **FREQUENTLY ASKED QUESTIONS**

### **REQUIREMENTS TO REMOVE MERCURY SWITCHES FROM END-OF-LIFE VEHICLES**

In its 2009 session, the Maryland General Assembly passed House Bill 1263, concerning mercury switch removal from end-of-life vehicles. This bill became law on July 1, 2009. This document highlights requirements of the law in a question and answer format.

#### **General Provisions**

**1. What are the general requirements of the law?**

The law requires removal of mercury-containing switches from end-of-life vehicles by vehicle recyclers or by scrap processing facilities. Manufacturers of vehicles with mercury switches are required to develop and implement a “mercury minimization plan” that will assist entities required to remove mercury-containing switches from vehicles. The plan is required to provide information on the location of mercury-containing switches in vehicles by make, model and vehicle year; information on the safe and environmentally sound method of removing the switches from vehicles; a method for storage, collection and recovery of removed switches; and payment for removal of mercury-containing switches conducted in accordance with the plan.

**2. Where can I find the text of the law?**

The law is found in the following sections of the Environment Article of the Annotated Code of Maryland: Section 6-904 (Findings), Section 6-905 (Definitions), Section 6-905.4 (Mercury minimization plan), Section 6-905.5 (Mercury switches or mercury switch assemblies), and Section 6-905.6 (Violations and penalties). The statutes are available on the Maryland Department of the Environment’s mercury recycling web page at [www.mde.state.md.us/Programs/LandPrograms/Recycling/mercury/index.asp](http://www.mde.state.md.us/Programs/LandPrograms/Recycling/mercury/index.asp).

**3. When do individual provisions of the law take effect?**

Manufacturers were required to submit the mercury minimization plan to the Maryland Department of the Environment for review and approval by September 30, 2009. Provisions requiring the removal of mercury switches from end-of-life vehicles take effect December 1, 2009. The law contains a sunset provision that abrogates the law December 31, 2017 unless further action is taken by the General Assembly.

**4. Who is required to remove mercury-containing switches and mercury-containing switch assemblies from end-of-life vehicles?**

Requirements for switch removal apply to vehicle recyclers. In some cases, responsibility for the switch removal requirement can be assumed by a scrap processing facility. A “vehicle recycler” is defined in the law as a person engaged in the business of:

- (1) Dismantling, destroying, or scrapping any vehicle for the purpose of reselling any of its usable parts; or
- (2) Otherwise acquiring vehicles for the benefit of their parts or the materials in them.

A “scrap processing facility” is defined as “a facility:

- (1) That processes iron, steel, and nonferrous scrap metal; and
- (2) The principal product of which is scrap iron, scrap steel, and nonferrous scrap for sale and re-melting purposes.

Specific information on the switch removal requirements can be found in the section of this Frequently Asked Questions compilation that addresses questions relating to requirements for vehicle recyclers.

**5. Are individual vehicle owners required to remove mercury-containing switches from their vehicle before it is scrapped?**

No. An individual vehicle owner is not required to remove mercury-containing switches from a vehicle before it is scrapped.

**6. What vehicles have mercury-containing switches?**

Not every vehicle has a mercury-containing switch. The last model year in which mercury switches were used was 2003. Lists of vehicles that were manufactured with mercury-containing switches can be found on the End of Life Vehicle Solutions web site at [www.elvsolutions.org/educational.html](http://www.elvsolutions.org/educational.html). Common applications for mercury containing switches include convenience light switches (trunks, hoods, vanity mirrors), antilock braking system (ABS) sensors, and air bag crash sensor modules.

**7. Is there someone I can contact if I have additional questions?**

Yes. Contact Ms. Hilary Miller or Mr. Stephen Markowski by phone at 410-537-3314, by email at [hmillier@mde.state.md.us](mailto:hmillier@mde.state.md.us) and [smarkowski@mde.state.md.us](mailto:smarkowski@mde.state.md.us), respectively, or by mail at:

[Insert Name]  
c/o Maryland Department of the Environment  
LMA/Technical Services and Operations Program  
1800 Washington Boulevard  
Suite 610  
Baltimore, MD 21230-1719

Additional information regarding Maryland’s Mercury Switch Removal from Vehicles law is available on the Maryland Department of the Environment’s mercury recycling web page at [www.mde.state.md.us/Programs/LandPrograms/Recycling/mercury/index.asp](http://www.mde.state.md.us/Programs/LandPrograms/Recycling/mercury/index.asp).

## **Requirements for Vehicle Recyclers and Scrap Processing Facilities**

### **8. What are my responsibilities under the law?**

Responsibilities of vehicle recyclers and scrap processing facilities relate to requirements to remove mercury-containing switches from end-of-life vehicles before they are processed for scrap, record keeping requirements, and requirements for the management of removed switches. More details concerning these requirements are provided below.

### **9. What are the requirements for switch removal?**

Beginning on December 1, 2009, a vehicle recycler that sells, gives, or otherwise conveys ownership of an end-of-life vehicle to a scrap processing facility for processing is required to remove all mercury switches and mercury switch assemblies from the vehicle, as follows:

- before delivery to a scrap processing facility;
- not later than 180 days after receipt of the vehicle; and
- by December 31, 2010 for vehicles that were in the vehicle recycler's inventory as of September 30, 2009.

Removal of a mercury switch or mercury switch assembly is not required if the switch or switch assembly is inaccessible due to significant damage to the vehicle in the area surrounding the switch or switch assembly. If damage to the vehicle prevents removal of the mercury-containing switch, the vehicle recycler is required to note the damage in the vehicle recycler's normal business records.

A scrap processing facility may, under the law, agree to accept an end-of-life vehicle from which not all mercury-containing switches have been removed if the scrap processing facility removes all the mercury-containing switches before the vehicle is intentionally flattened, crushed, baled or shredded. Note, however, that this does not absolve the vehicle recycler of the responsibility to meet the deadlines for mercury switch removal mentioned above (180 days after receipt of a vehicle, and December 31, 2010 for vehicles in inventory on September 1, 2009.) In other words, a recycling facility that keeps a vehicle on site for more than 180 days without removing mercury switches cannot claim to be in compliance based on there being an arrangement for a scrap processor to ultimately remove the switches. See Section 6-905.5 (b) (1), (2), (3) (c) (2), of the Environment Article, Annotated Code of Maryland.

### **10. What are the record keeping requirements?**

A vehicle recycler or a scrap processing facility that removes a mercury containing switch or mercury switch assembly is required to maintain electronic records documenting the number of mercury switches and mercury switch assemblies collected, the number of end-of-life vehicles containing mercury switches in inventory and processed, and the number of end-of-life vehicles processed for recycling. These records are required to be kept for 3 years, and made available to the Maryland Department of the Environment on request of the Department.

If vehicle damage prevents the removal of a mercury switch or switch assembly, the vehicle recycler is required to note the damage in the vehicle recycler's normal business records.

**11. How should mercury-containing switches that have been removed be managed?**

Motor vehicle manufacturers have chosen to use the End-of-Life Vehicle Solutions (ELVS) program to comply with Maryland's Mercury Switch Removal from Vehicles law. As a result, vehicle recyclers and scrap processing facilities will need to enroll in the ELVS Program.

More information on the ELVS vehicle mercury switch recovery program is available at [www.elvsolutions.org](http://www.elvsolutions.org). Vehicle recyclers and scrap processing facilities may enroll at [www.elvsolutions.org/contact.html](http://www.elvsolutions.org/contact.html).

Vehicle recyclers and scrap processing facilities must manage mercury containing switches and mercury switch assemblies in accordance with applicable hazardous and solid waste management laws and regulations. Compliance with Maryland's Mercury Switch Removal from Vehicles law does not preclude vehicle recyclers and scrap processing facilities from complying with the applicable regulatory requirements. The requirements are specified in the Code of Maryland Regulations (COMAR) 26.13.10 relating to the disposal of controlled hazardous substances. "Universal Waste" is defined in COMAR 26.13.01.03.B.

*Note: Only mercury containing switches and switch assemblies from end-of-life vehicles may be managed under the ELVS program. If other types of mercury switches (such as switches from building electrical systems, building thermostats, and appliance mercury switches) or other mercury-containing items are commingled with vehicle switches, the non-vehicle switches and ineligible mercury-containing items will be separated out at the destination facility and returned to the program participant at the program participant's expense.*

**12. How can I find information on which vehicles have mercury-containing switches, and information on how to remove them?**

Information is available in the "educational materials" section of the ELVS web site at [www.elvsolutions.org](http://www.elvsolutions.org).

**13. What is the tax status of payments received for collected switches under the ELVS/Vehicle Mercury Switch Recovery Program?**

The payments are considered income by the Internal Revenue Service (IRS) and will require 1099 reporting at year end. Program participants are required to complete a W9 form as a condition of participation.

**14. Can I contract with a third party to remove the mercury-containing switches for me?**

Yes, one may do so at their own cost as to payment to the third party but only the vehicle recycler meets the incentive for payment under the ELVS program.

**15. Can an individual who is not a vehicle recycler claim the manufacturer-supplied payments for vehicle mercury switches removed and collected?**

No, as indicated in answer to question above.

## **16. What are the penalties for non-compliance?**

Section 6-905.6 of the Environment Article, Annotated Code of Maryland, provides for criminal and civil penalties for violation of the requirements to remove mercury-containing switches from end-of-life vehicles. Upon conviction, first offenses carry maximum fines of \$1,000; second offenses carry maximum fines of \$2,500; and third and subsequent offenses carry maximum fines of \$5,000. Each violation is considered a separate offense, and each day a violation continues is a separate offense.

## **Requirements for Vehicle Manufacturers**

## **17. What is required of vehicle manufacturers under the law?**

Vehicle manufacturers that sold vehicles in Maryland that contained mercury switches are required to develop a “mercury minimization plan” that will ensure removal and collection of mercury-containing switches from end-of-life vehicles before the vehicles are processed at a scrap processing facility (intentionally flattened, crushed, baled or shredded.) The plan is required to include information on the location of mercury-containing switches in vehicles by make, model, and model year; information on the safe and environmentally responsible removal and handling of mercury-containing switches; a program plan for the removal, collection, and recovery of mercury-containing switches; payments to vehicle recyclers for each mercury-containing switch collected in accordance with the mercury minimization plan, and maintenance of appropriate record keeping systems associated with implementation of the plan.

Vehicle manufacturers are also required to file an annual report with the Maryland Department of the Environment on implementation of the mercury minimization plan.

## **18. What is the status of the manufacturers’ mercury minimization plan?**

A consortium of vehicle manufacturers submitted a mercury minimization plan to the Maryland Department of the Environment in late September, 2009. This draft plan was subsequently amended by the inclusion of vehicles manufactured by the entity currently known as “Motors Liquidation (GM)”. The Department reviewed the plan and requested revisions on October 30, 2009. A key element of the plan is management of removed mercury-containing switches through the ELVS/Vehicle Mercury Switch Recovery Program (which is described in detail at [www.elvsolutions.org](http://www.elvsolutions.org)). Although the Department has not approved the vehicle manufacturers’ plan, it is expected that the use of the ELVS/Vehicle Mercury Switch Recovery Program as the core of the plan will be acceptable. Persons subject to requirements to remove mercury-containing switches from end-of-life vehicles are strongly encouraged to enroll in the ELVS/Vehicle Mercury Switch Recovery Program if they have not already done so.