



ARA CARS Q & A

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DOT CARS Rule Released

On July 24, 2009, the U.S. Department of Transportation's (DOT) released the rule spelling out the parameters of participation in the Car Allowance Rebate System (CARS) program.

ARA is continually revising a Q & A document summarizing key parts of the 136-page rule that pertain to automotive recycling industry. (*See Below*).

I am an automotive recycler; can I process CARS trade-in vehicles from new car dealers?

NHSTA identified the National Vehicle Mercury Switch Recovery Program (NVMSRP) as the comprehensive source of disposal facilities generally committed to meeting State and Federal environmental laws.

NHTSA has identified disposal facilities that are ELVS participants for listing as approved disposal facilities under this program, and these disposal facilities are listed on the agency's website at www.cars.gov/disposal.

To be eligible for participation in the CARS Program, a facility on the ELVS list must be able to crush or shred motor vehicles, either with its own equipment or by use of a mobile crusher.

I have looked at the ELVS list, my company is not on it but there are entities I believe shouldn't be on the list?

NHTSA identified disposal facilities that are ELVS participants for listing as approved disposal facilities under this program, and these disposal facilities are listed on the agency's website at www.cars.gov/disposal. If your company has not signed up, entities can sign-up to participate in the ELVS program at www.elvsolutions.org. Once you have signed up to participate, it is likely that you will not be able to participate until your company name appears on CARS official website which is www.cars.gov. At this time, it is not how often their list will be updated.

Some entities on this list may dispose of mercury switches as part of their business (for example, auto repair businesses) but do not actually engage in dismantling or recycling of vehicles. Therefore, the fact that a facility is on the list does not automatically ensure that it is equipped to dispose of vehicles properly. **To be eligible for participation in the CARS Program, a facility on the ELVS list must be able to crush or shred motor vehicles, either with its own equipment or by use of a mobile crusher.**

I am listed on CARS.gov website as a disposal facility, but have not yet reported any vehicles acquired by my company since March 1, 2009 to the National Motor Vehicle Titling Information System (NMVTIS). Can I still participate in the program?

While NMVTIS reporting status is not an initial requirement to participate in the CARS program, a participating disposal facility is required to report any CARS trade-in vehicle they obtain within 7 days. Thus, it is extremely important if you wish to participate that you sign up and ensure that your data will be reported to NMVTIS within the required period. It is important to check with your yard management system (YMS) provider, i.e. Pinnacle, CheckMate, PartMate, Hollander, to determine how to forward your data to a NMVTIS data consolidator. If you don't use a YMS, there is an option to forward your data through a dedicated web portal. Additionally, you must ensure you are signed up with one of the two NMVTIS data consolidators. One of those companies is the Insurance Service Office (ISO) that also has a second reporting option through an agreement with the National Salvage Vehicle Reporting Program (NSVRP). To inquire about ISO/NSVRP services contact Howard Nusbaum by at (203) 975-9889 or by e-mail at nsvrp@earthlink.net. Another NMVTIS data consolidator is Auto Data Direct (ADD). To inquire about ADD services, contact Jay Svendsen at (850) 877-8804 or by e-mail jays@add123.com.

What are automotive recyclers required to do to ensure that trade-in vehicle are disposed of properly?

- 1) At the time of receiving a CARS trade-in vehicle, complete and deliver the signed Disposal Facility Certification Form to the dealer or salvage auction that transferred the trade-in vehicle **assuring compliance with the following requirements.**
 - a. The trade-in vehicle has not been, and will not be, sold, leased, exchanged or otherwise disposed of for use as an automobile in the United States or in any other country.
 - b. Not transfer the trade-in vehicle to another disposal facility prior to its crushing or shredding.
 - c. Not sell or transfer the trade-in vehicle's engine block and drive train (unless with respect to the drive train, the transmission, drive shaft, or rear end are sold as separate parts) at any time prior to its crushing or shredding;
 - d. Properly remove and dispose of refrigerants, antifreeze, lead products, mercury switches, and such other toxic or hazardous vehicle components prior to the crushing or shredding of the trade-in vehicle, in accordance with all applicable Federal and State requirements under the supervision of the owner of the vehicle recycling firm;
 - e. Remove and return for proper disposal, all mercury switches in accordance with the procedures of the National Vehicle Mercury Switch Recovery Program (NVMSRP);
 - f. Crush or shred (or cause to be crushed or shredded on our premises), the trade-in vehicle **within one hundred eighty (180) days** after the above-listed date of receipt.
 - g. Report to NMVTIS that this facility crushed or shredded the trade-in vehicle **not more than seven (7) days after the date of crushing or shredding.**

2. Disposal facilities **MUST keep records of all transactions under the CARS Act and regulations there under for a period of five calendar years** from the date on which they were generated or acquired by the manufacturer, salvage auction, dealer, or disposal facility, and shall promptly make those records available to NHTSA Enforcement or DOT's Office of the Inspector General upon request.

How long does an automotive recycling facility before it must crush the CARS vehicle?

According to the NHTSA rule, disposal facilities must crush or shred the trade-in vehicle onsite, including the engine block and the drive train (unless with respect to the drive train, the transmission, drive shaft, and rear end are sold separately), using its own machinery or a mobile crusher, within 180 days after receipt of the vehicle from the dealer or salvage auction.

What is the scrappage value of the vehicle?

The CARS Act specifies that while many parts of the trade-in vehicle are permitted to be removed and sold, in the end the residual vehicle, including the engine block, must be crushed or shredded. Therefore, the trade-in value of the vehicle is not likely to exceed its scrap value. NHTSA is advising purchasers that they should not expect to receive the same trade-in value as they might if the vehicle were to remain on the road.

The Act also requires dealers to disclose to purchasers the scrap value of the trade-in vehicle at the time of the trade-in and allows dealers to retain up to \$50 of the scrap value of the vehicle for their administrative costs of participation in the program. According to the July 2, 2009 CARS notice in the *Federal Register*, allocation of any remaining scrappage fees is subject to negotiation between the dealer and purchaser.

How do automotive recyclers participate in the program to acquire these vehicles?

ARA urges members to actively reach out to local automotive dealers to share information regarding your ARA membership, your ELVS participation, NMVTIS reporting activities along with other environment stewardship activities. It is very important for professional automotive recyclers to personally tout these facts to your local auto dealers so they better understand the value your company will provide from them personally knowing the entity that will conduct the depolluting activities of the trade-in vehicles and ensuring that these vehicles are processed in accordance with the requirements set forth by DOT, or incur a \$15,000 fine.

After review, NHTSA determined it was practicable to provide for the participation of salvage auctions in the transfer of trade-in vehicles to disposal facilities under the CARS program, in order to broaden the avenues of disposal available to dealers. Therefore, salvage auctions may receive a CARS trade-in vehicle from an automobile dealer, provided that, as a condition of participation, participating salvage pool auctions *agree to limit their auction sales of CARS trade-in vehicles to the disposal facilities described above that appear on the agency's list.*

How do automotive recyclers acquire a "disposal facility number"?

The disposal facility number is the unique identifier assigned to the disposal Facility identified by NHTSA on the CARS website, and to which the vehicle can be transferred or consigned. NHTSA currently lists those eligible "disposal facilities" and their "disposal facility numbers" in the dealers section of the www.cars.gov website. ARA has contacted NHTSA regarding how often this list will be updated. The CARS rule indicates periodically, which we believe will be at least weekly.

Please note this important information, there is no ELVS ID number –the company name, address, mailing address, contact information that is listed on the NHSTA CARS.gov website comes from ELVS, but the disposal facility number can only be assigned by NHTSA. Automobile dealers can use only disposal facilities listed on the CARS.gov website at the time they forward the CARS trade-in vehicle for processing. Entities could be added or deleted from the CARS.gov disposal facility list over the life of the program.

In the NHTSA rule, it states that as a condition of accepting transfer of the trade-in vehicle, the disposal facility must certify that it meets all applicable State and Federal laws and has a currently active State license to operate as a disposal facility in that State. My state (i.e. Pennsylvania, North Carolina, Colorado or Alaska) does not have an automotive recyclers/salvage license, can I still participate?

ARA has taken the first step to get written clarification from NHTSA on this issue. In a conversation earlier today, NHTSA officials stated they will provide clarification which indicates that for those states that do not have licenses for automotive recycling/salvage entities, automotive recyclers/salvage facilities only have to be in good standing in regards to the requirements in that state. For Pennsylvania, that could be a current wrecking lot (WL) tag or in North Carolina it could be that you are in compliance with any possible zoning ordinances.

I am a qualified disposal facility; can our company make the engine inoperable for an auto dealership?

The dealer must disable the trade-in vehicle's engine prior to transferring the vehicle to a disposal facility. A qualified disposal facility cannot perform this function for an automobile dealership. NHTSA has the authority to assess a civil penalty of up to \$15,000 for any violation of the CARS act.

NHTSA believes that the statutory interest in ensuring that the vehicle is not returned to use on the road in this or any other country is largely met before it leaves the dealer's possession. In NHTSA's opinion, prior engine disablement reduces the likelihood that a trade-in vehicle will be returned to use as an on-road automobile.

On the bottom of page 51 of the CARS rule, the text states, "During the six-month period prior to the required crushing or shredding of the trade-in vehicle, the disposal facility may sell any parts of the vehicle other than the engine block or drive train (unless the drive train is dismantled and sold in parts)." Does that mean I must take the parts out of inventory if they have already been dismantled off the vehicle?

ARA has received clarification that a disposal facility can sell authorized parts pulled and inventoried from the CARS disposal vehicle during the 180 day processing window. NHTSA requires CARS disposal facilities to crush or shred the trade-in vehicle onsite, including the engine block and the drive train (unless with respect to the drive train, the transmission, drive shaft, and rear end are sold separately), using its own machinery or a mobile crusher, within 180 days after receipt of the vehicle from the automobile dealer or salvage auction.

The CARS legislation and rule restrict the sell of the "engine block", but do allow for the sale of the "drive train" if the drive train, the transmission, drive shaft and rear end are sold separately. As far as the engine, what can I sell?

NHTSA in the CARS rule noted that the statutory term engine block was not defined in the legislation and that Congress did not speak directly to its meaning.

According to NHTSA, the term engine block may in general refer to the block casting, or to a short block or long block. The short and long blocks contain the block casting and, among others, a crank shaft, connecting rods, bearings and pistons. Long blocks also include the cylinder head(s) and the cam(s). In a pushrod engine, the short block contains the cam.

NHTSA interprets “engine block” to mean the part of the engine containing the cylinders and typically incorporating water cooling jackets and also including the crank, rods, pistons, bearings, cam(s) and cylinder heads. In the case of a rotary engine, the block includes the rotor housing and rotor.

NHTSA does not believe that parts from the engine such as the pistons and cylinder head that could be removed and used to reconstruct the engine from the CARS trade in-vehicle should remain available to recreate the fuel consuming engine.

How long do I have to keep records of the CARS trade-in vehicles processed at my facility?

Manufacturers, dealers, salvage auctions, and disposal facilities are required to keep records of all transactions under the CARS Act and regulations for a period of five calendar years from the date on which they were generated or acquired by the manufacturer, salvage auction, dealer, or disposal facility. Additionally, the above mentioned entities are required to promptly make those records available to NHTSA Enforcement or DOT’s Office of the Inspector General upon request.

How is the CARS trade-in vehicles title handled under the program?

The rule requires that, prior to submitting a copy of the title along with its request for reimbursement, the dealer clearly mark the title on both sides with the words, “Junk Automobile, CARS.gov.” The marking must be placed so as not to obscure the vehicle owner’s name, VIN, or other writing. Having this special label or brand on the title will inform all who subsequently handle it that the vehicle is a trade-in under this program and should not be registered or titled for further use as an automobile.

After that, the title is handled according to current procedures in your state. State registration officials should pay special attention to this marking on a title because it indicates that the vehicle has been traded in under the CARS program with the understanding that it would never again be used as an automobile in this or any other country and is suitable only to be used for scrap or parts.

As a authorized disposal facility, can my facility transfer CARS trade-in vehicles to another authorized disposal facility?

The CARS rule mandates that a disposal facility must certify that the vehicle will not be transferred to another disposal facility prior to being crushed or shredded.

Does the new NHTSA CARS amendment that allows automobile dealers to disable engine after receiving payment from the federal government affect certified disposal facilities?

On Saturday, August 1, the NHTSA amended the CARS rule to now allow the dealers to choose to disable the engine of the trade-in vehicle after they receive payment from the government for the credit (not more than seven calendar days after payment). However, until the vehicle's engine is disabled, the dealer must store the vehicle at a location under the control of the dealership.

This change was precipitated by automobile dealers' uneasiness that they might forward a CARS trade-in to a certified disposal facility that ultimately did not get approval from the government. This amendment will probably slow the initial flow of CARS trade-in vehicles showing up at certified disposal facilities.

As part of the amendment, NHTSA also made minor technical changes to "Disposal Facility Certification" form to correct the incorrect reference previously to an ELVS number.