

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Bard Manufacturing Company, Inc.;  
Burnham Holdings, Inc.;  
Carrier Corporation;  
Chromalox;  
Crane;  
Climate Master, Inc.;  
Empire Comfort Systems;  
General Electric Company;  
Honeywell International Inc.;  
Hunter Fan Company;  
Invensys, Inc.;  
ITT Corporation;  
Johnson Controls;  
Lear Siegler;  
Lennox International Inc.;  
Lux Products;  
The Marley-Wylain Company;  
Nortek Global HVAC, LLC;  
Sears Holdings;  
Thomas & Betts Corporation;  
Trane Residential Systems;  
Uponor, Inc.;  
Vaillant Corporation;  
W. W. Grainger;  
and White-Rodgers

Docket HWCA:

HWCA20157178;  
HWCA20157180;  
HWCA20157203;  
HWCA20157181;  
HWCA20157183;  
HWCA20157182;  
HWCA20157185;  
HWCA20157186;  
HWCA20157188;  
HWCA20157189;  
HWCA20157191;  
HWCA20157192;  
HWCA20157193;  
HWCA20157196;  
HWCA20157194;  
HWCA20157179;  
HWCA20157200;  
HWCA20157195;  
HWCA20157199;  
HWCA20157201;  
HWCA20157190;  
HWCA20157204;  
HWCA20157205;  
HWCA20157206;  
HWCA20157207;

**CONSENT ORDER**

Health and Safety Code  
Section 25187 and 25214.8.17

## INTRODUCTION

1.1. Parties. The Parties to this Consent Order ("Order") are the State Department of Toxic Substances Control (Department) and Bard Manufacturing Company, Inc.; Burnham Holdings, Inc.; Carrier Corporation; Chromalox; Crane; Climate Master, Inc.; Empire Comfort Systems; General Electric Company; Honeywell International Inc.; Hunter Fan Company; Invensys, Inc.; ITT Corporation; Johnson Controls; Lear Siegler; Lennox International Inc.; Lux Products; The Marley-Wylain Company; Nortek Global HVAC, LLC; Sears Holdings; Thomas & Betts Corporation; Trane Residential Systems; Uponor, Inc.; Vaillant Corporation; W. W. Grainger; and White-Rodgers (collectively, Respondents).

1.2. Definition of Manufacturer. California Health and Safety Code section 25214.8.11, subdivision (a) defines a Manufacturer "as a business concern that owns or owned a name brand of mercury-added thermostats sold in this state before January 1, 2006." Each Respondent has been identified by the Department as a Manufacturer.

1.3. Definition of Program. California Health and Safety Code section 25214.8.11, subdivision (a) defines a Program as "a system for the collection, transportation, recycling, and disposal of out-of-service mercury-added thermostats that is financed, as well as managed or provided, by a manufacturer or collectively with other manufacturers."

1.4. Exhibits. All exhibits attached to this Order are incorporated herein by this reference.

1.5. Actions Challenging Order. In the event that a third party brings an action against the Department that challenges the legality of this Order, or that could result in the nullification or modification of this Order, the Department shall promptly notify the Respondents in accordance with the notice procedures herein.

## VIOLATIONS ALLEGED

2.1. California Health and Safety Code section 25214.8.12, subdivision (a), subparagraph (1) requires a Manufacturer to maintain a Program to collect out-of-service mercury-added thermostats. California Health and Safety Code section 25214.8.12, subdivision (a), subparagraph (2) allows a Manufacturer to establish a Program individually or collectively with other Manufacturers. To fulfill these obligations, each Respondent has chosen to utilize its membership

in the Thermostat Recycling Corporation (TRC), a non-profit stewardship organization founded in 1998 that facilitates and manages the collection and disposal of out-of-service mercury-added thermostats.

2.2. California Health and Safety Code section 25214.8.17, subdivision (b), subparagraph (1) required the Department to establish through regulation performance requirements that specify collection rates expressed as a percentage of out-of-service mercury-added thermostats becoming waste annually. The performance requirements are specified in California Code of Regulations, title 22, section 66274.5, subsection (a), which became effective on July 1, 2013. The Mercury Thermostat Collection Act of 2008 (MTCA), California Health and Safety Code, Chapter 6.5, Article 10.2.2, does not mandate the removal of mercury-added thermostats from buildings, but rather focuses on the establishment and maintenance of a collection, transportation, recycling and disposal program of the maximum feasible number of out-of-service mercury-added thermostats.

2.3. Pursuant to California Health and Safety Code section 25214.8.13, subdivision (i) and the California Code of Regulations, title 22, section 66274.8, Respondents are required to submit an annual report to the Department that includes a description of how they have operated the Program, an evaluation of the effectiveness of the Program, an accounting of the costs of the Program, and modifications the Manufacturers are proposing to make to the Program, if any. Pursuant to California Code of Regulations, title 22, section 66274.8, subsection (a), the annual report is required to include a listing of all Manufacturers that are represented in the Program that historically produced mercury-added thermostats and sold them in California. To fulfill these obligations, TRC submitted (a) its 2013 Annual Program Report for California to the Department on or about March 28, 2014; and (b) its 2014 Annual Program Report for California on or about March 31, 2015.

2.4. After reviewing the 2013 Annual Program Report that was submitted by TRC on behalf of the Respondents, the Department issued a summary of violation (the 2013 SOV) on or about July 3, 2014, to each Respondent alleging, inter alia, that the Respondent had failed (a) to meet the performance requirement for 2013 and (b) to propose enhancements sufficient to meet the performance requirements for 2014.

2.5. Respondents have filed responses to the 2013 SOV contesting its allegations on a

number of factual and legal grounds.

2.6. After reviewing the 2014 Annual Program Report that was submitted by TRC on behalf of the Respondent, the Department issued a summary of violation (the 2014 SOV) on or about June 9, 2015 to each Respondent alleging, inter alia, that the Respondent had failed (a) to meet the performance requirement for 2014 and (b) to propose enhancements sufficient to meet the performance requirements for 2015.

2.7. Respondents have filed responses to the 2014 SOV contesting its allegations on a number of factual and legal grounds.

2.8. The Parties wish to avoid the uncertainty and expense of administrative and/or judicial proceedings that would be necessary to resolve the 2013 and 2014 SOVs. In addition, the pilot programs and program enhancements required by this Order will yield data over the next several years that will assist the Respondents in identifying means of increasing the number of out-of-service mercury-added thermostats collected.

2.9. Jurisdiction exists pursuant to Health and Safety Code sections 25187 and 25214.8.17. California Health and Safety Code section 25214.8.17, subdivision (a) authorizes the Department to order a Manufacturer, or a group of Manufacturers operating a Program, to revise its Program and to undertake actions to comply with California Health and Safety Code, Chapter 6.5, Article 10.2.2, MTCA. California Health and Safety Code section 25187 authorizes the Department to order action necessary to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

2.10. Respondents waive any right to a hearing with respect to the violations alleged in the 2013 and 2014 SOVs.

2.11. This Order shall constitute full settlement of all violations alleged in the 2013 and 2014 SOVs.

2.12. This Order does not (a) limit the Department from taking appropriate enforcement action concerning any unrelated violations of the California Health and Safety Code, Chapter 6.5 or its implementing regulations; (b) limit the Department from taking appropriate enforcement action of

any future violations of the California Health and Safety Code, Chapter 6.5 or its implementing regulations; or (c) limit the Department's ability to pursue any available remedy for breach of this Order. Respondents reserve the right to assert any and all statutory, regulatory and common law rights and defenses to any alleged breach of this Order. Nothing in this Order, including but not limited to, the penalty provisions contained or referenced herein, shall constitute an acknowledgment or admission of liability by any Respondent, and each Respondent expressly denies any liability or wrongdoing in connection with the allegations contained in the 2013 and 2014 SOVs.

#### PENALTY

3. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the Respondents' penalty at \$625,000. Payment is due within thirty (30) days from the effective date of the Order. Respondents' checks shall be made payable to the Department of Toxic Substances Control, and shall identify each Respondent and Docket Number, as shown in Exhibit C.

Respondents shall deliver the penalty payment to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st Floor  
P.O. Box 806  
Sacramento, CA 95812-0806

A photocopy of the check will be sent to the Department contact person identified in Paragraph 5.1.

#### RESPONDENTS' PLAN FOR COMPLIANCE

4. Respondents shall conduct all of the actions detailed in Exhibit B in accordance with the schedule set forth therein.

#### SUBMITTALS

5.1. Notice. All submittals from Respondents pursuant to this Consent Order shall be sent to:

Mr. Donn Diebert, Chief  
Implementation Unit  
Policy and Program Support Division  
Hazardous Waste Management Program  
Department of Toxic Substances Control  
1001 I Street  
P.O. Box 806

Within thirty (30) days of the Effective Date, each Respondent shall provide the Department with the name and address of a contact person to whom all notices pursuant to this Consent Order shall be sent.

5.2. Communications. All approvals by the Department of the Plans required by this Order and other decisions of the Department made regarding submittals shall be communicated to Respondents in writing by a Branch Chief, Hazardous Waste Management Program, Department of Toxic Substances Control, or his/her designee. Except as otherwise provided herein, no informal advice, guidance, suggestions, or comments by the Department regarding reports, work plans, schedules, or any other correspondence by Respondents shall be construed to relieve Respondents of their obligation to obtain such formal approvals as required by this Order.

5.3. Department Review of Submittals. Within sixty (60) days after receipt of any plan, report, data, request, or other item that is submitted or required to be submitted, or revised and resubmitted, to the Department for approval pursuant to this Order, the Department shall in writing: (a) approve the submission; (b) approve the submission upon specified conditions; (c) approve part of the submission, which part may be implemented by Respondents, and disapprove the remainder; or (d) disapprove the complete submission. In the event of disapproval of any portion of the submission, the Department shall include a statement of the reasons for such disapproval in its response and provide an appropriate extension date for the Respondents to address such disapproval. Respondents may dispute the Department's disapproval by invoking the dispute resolution procedures described in Paragraph 16 herein.

#### OTHER PROVISIONS

6. Compliance with Applicable Laws. Respondents shall carry out this Order in compliance with all local, state, and federal requirements, including but not limited to requirements to assure worker safety and requirements related to hazardous waste management.

7. Data and Document Availability. Respondents shall permit the Department and its authorized representatives to inspect and copy all data generated by Respondents or on Respondents' behalf in any way pertaining to work undertaken pursuant to this Order. Respondents

shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondents for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondents shall comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondents shall notify the Department in writing at least six (6) months prior to destroying any documents prepared pursuant to this Order.

8. Government Liabilities. The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents or related parties specified in Exhibit B, et seq., in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondents or its agents in carrying out activities pursuant to this Order.

9. Incorporation of Plans and Reports. All plans, schedules, and reports that are submitted by Respondents and approved by the Department pursuant to this Order are incorporated in this Order.

10. Extension Requests. If Respondents are unable to perform any activity or submit any document within the time required pursuant to this Order, Respondents may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

11. Extension Approvals. If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule. "Good cause" shall include delays by the Department in completing its review of and response to submittals by Respondents to the extent that future deadlines are impacted as specified in the schedule. Respondents shall comply with the new schedule specified by the Department, which shall be incorporated by reference into this Order.

12. Additional Enforcement Actions. By agreeing to this Order, the Department does not waive the right to take further enforcement actions against the Respondents, except to the extent inconsistent with this Order. In addition to any other factor the Department may consider in

assessing penalties for noncompliance, in accordance with Section 66272.68, Title 22, California Code of Regulations, in considering penalties for failing to collect sufficient out-of-service mercury-added thermostats in any future year, the Department will consider the Manufacturers' cooperation and efforts in achieving compliance and carrying out their responsibilities and obligations in accordance with this Order. Cooperation in achieving compliance is the standard and all necessary good faith efforts to collect the required number of out-of-service mercury-added thermostats must be made.

13. Penalties for Noncompliance. Respondents' failure to comply with the terms of this Order may subject Respondents to civil penalties and liability for any costs incurred by the Department as a result of such failure. Following the Department's determination that Respondents have failed to comply with a requirement of the Order, the Department shall give Respondents written notification of the violation and describe the factual and legal circumstances constituting noncompliance. The Department may send Respondents a written notice of noncompliance with an opportunity to cure by a date designated by the Department in lieu of a written demand for the payment of penalties. Respondents may dispute any finding of noncompliance by invoking the dispute resolution procedures described in Paragraph 16. Respondents reserve all of their rights and defenses with respect to any effort by the Department to impose penalties or seek reimbursement of costs for violations of this Order.

14. Parties Bound. This Order shall apply to and be binding upon the signing Respondents and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

15. Time Periods. "Days" for purposes of this Order means calendar days.

16. Dispute Resolution Procedure. The parties agree to use their best efforts to resolve all disputes on an informal basis. However, if any of the named Respondents disagree with any written decision or action by the Department pursuant to this Order, Respondents shall orally notify the



Department Project Coordinator(s) of the dispute. The Project Coordinator(s) shall attempt to resolve the dispute informally.

16.1. If the Project Coordinator(s) cannot resolve the dispute informally, Respondents may submit written objection to the Chief, Policy and Program Support Division, or his or her designee, with a copy to the Department's Project Coordinator, within fourteen (14) days of receipt of the Department's written decision. The written objection must set forth the specific points of the dispute and the basis for Respondents' position.

16.2. The Department and Respondents shall have fourteen (14) days from receipt of Respondents' written objection of the Department's decision to resolve the dispute through formal discussions with the Department's Deputy Director, Hazardous Waste Management Program. The Department may agree to extend this period in writing.

16.3. Upon the conclusion of the formal discussion period described in Paragraph 16.2 above, the Department shall provide Respondents with its written decision on the dispute, which shall constitute a final agency decision. The Department's written decision shall reflect any agreements reached during the dispute resolution period and be signed by the Deputy Director or his or her designee.

16.4. During the pendency of any dispute resolution proceedings initiated under this Paragraph, set forth above, the time periods for completion of work to be performed under this Order that are affected by such dispute shall be extended for a period of time not to exceed the actual time taken to resolve the dispute. The existence of a dispute shall not excuse, toll, or suspend any other compliance obligation or deadline required pursuant to this Order except to the extent that such other compliance obligation or deadline is dependent upon the resolution of the matter which is the subject of Dispute Resolution under this Order, in which case the time periods for completion of such other compliance obligations or deadlines required pursuant to this Order that are affected by such Dispute Resolution shall be extended for a period of time not to exceed the actual time taken to resolve the dispute.

16.5. Penalties assessed by the Department against Respondents for noncompliance with this Order shall accrue but shall not become due and payable until the conclusion of the dispute

17. Effective Date. The Effective Date of this Order is the date it has been signed by the Department. This Order shall remain in effect until Respondents have complied with all parts of this Order.

19. This Order may be executed in counterparts.

Dated: FEB 3, 2016

original signed by Paul Mats

EXECUTIVE VICE PRESIDENT P.M.

Bard Manufacturing Company, Inc., Respondent

Dated: \_\_\_\_\_

Chromalox, Respondent

resolution.

17. Effective Date. The Effective Date of this Order is the date it has been signed by the Department. This Order shall remain in effect until Respondents have complied with all parts of this Order.

18. Integration. This Order and its Exhibits constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

19. This Order may be executed in counterparts.

20. Force Majeure. Any event that is beyond the reasonable control of Respondents and that prevents timely performance of any obligation under this Order, despite Respondents' best efforts to fulfill that obligation, is a *force majeure* event. In exercising its best efforts, Respondents must anticipate any potential *force majeure* event and address the effects of such event as it is occurring and, following such event, minimize any delay to the greatest feasible extent. *Force majeure* does not include financial inability to fund or complete the obligations required by this Order.

Dated: \_\_\_\_\_

Bard Manufacturing Company, Inc., Respondent

Dated: 2/3/15

original signed by John A. Roda -

✓

Burnham Holdings, Inc., Respondent

Dated: \_\_\_\_\_

Carrier Corporation, Respondent

Dated: \_\_\_\_\_

Chromalox, Respondent

resolution.

17. Effective Date. The Effective Date of this Order is the date it has been signed by the Department. This Order shall remain in effect until Respondents have complied with all parts of this Order.

18. Integration. This Order and its Exhibits constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

19. This Order may be executed in counterparts.

20. Force Majeure. Any event that is beyond the reasonable control of Respondents and that prevents timely performance of any obligation under this Order, despite Respondents' best efforts to fulfill that obligation, is a *force majeure* event. In exercising its best efforts, Respondents must anticipate any potential *force majeure* event and address the effects of such event as it is occurring and, following such event, minimize any delay to the greatest feasible extent. *Force majeure* does not include financial inability to fund or complete the obligations required by this Order.

Dated: \_\_\_\_\_

Bard Manufacturing Company, Inc., Respondent

Dated: \_\_\_\_\_

Burnham Holdings, Inc., Respondent

Dated: February 4, 2016 original signed by Christopher Nelson

Carrier Corporation, Respondent

Dated: \_\_\_\_\_

Chromalox, Respondent

resolution.

17. Effective Date. The Effective Date of this Order is the date it has been signed by the Department. This Order shall remain in effect until Respondents have complied with all parts of this Order.

18. Integration. This Order and its Exhibits constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

19. This Order may be executed in counterparts.

20. Force Majeure. Any event that is beyond the reasonable control of Respondents and that prevents timely performance of any obligation under this Order, despite Respondents' best efforts to fulfill that obligation, is a *force majeure* event. In exercising its best efforts, Respondents must anticipate any potential *force majeure* event and address the effects of such event as it is occurring and, following such event, minimize any delay to the greatest feasible extent. *Force majeure* does not include financial inability to fund or complete the obligations required by this Order.

Dated: \_\_\_\_\_

Bard Manufacturing Company, Inc., Respondent

Dated: \_\_\_\_\_

Burnham Holdings, Inc., Respondent

Dated: \_\_\_\_\_

Carrier Corporation, Respondent

Dated: 2-3-16

original signed by Craig Creature

Craig A. Creature, CFO  
Chromalox, Respondent

Dated: 2/5/16 original signed by Anthony D'Lorio

Crane, Respondent

Dated: \_\_\_\_\_

Climate Master, Inc., Respondent

Dated: \_\_\_\_\_

Empire Comfort Systems, Respondent

Dated: \_\_\_\_\_

General Electric Company, Respondent

Dated: \_\_\_\_\_

Honeywell International Inc., Respondent

Dated: \_\_\_\_\_

Hunter Fan Company, Respondent

Dated: \_\_\_\_\_

Invensys, Inc., Respondent

Dated: \_\_\_\_\_

ITT Corporation, Respondent

Dated: \_\_\_\_\_

Dated: 2/2/16

original signed by Rick Aldridge

esident

Climate Master, Inc., Respondent

Dated: \_\_\_\_\_

Empire Comfort Systems, Respondent

Dated: \_\_\_\_\_

General Electric Company, Respondent

Dated: \_\_\_\_\_

Honeywell International Inc., Respondent

Dated: \_\_\_\_\_

Hunter Fan Company, Respondent

Dated: \_\_\_\_\_

Invensys, Inc., Respondent

Dated: \_\_\_\_\_

ITT Corporation, Respondent

Dated: \_\_\_\_\_

Crane, Respondent

Dated: \_\_\_\_\_

Climate Master, Inc., Respondent

Dated: 1.29.14

original signed by Kenneth J. Belding

KENNETH J. BELDING

Empire Comfort Systems, Respondent

Dated: \_\_\_\_\_

General Electric Company, Respondent

Dated: \_\_\_\_\_

Honeywell International Inc., Respondent

Dated: \_\_\_\_\_

Hunter Fan Company, Respondent

Dated: \_\_\_\_\_

Invensys, Inc., Respondent

Dated: \_\_\_\_\_

ITT Corporation, Respondent



Dated: \_\_\_\_\_

Crane, Respondent

Dated: \_\_\_\_\_

Climate Master, Inc., Respondent

Dated: \_\_\_\_\_

Empire Comfort Systems, Respondent

Dated: Feb 3, 2016 original signed by Rob McKeel

General Electric Company, Respondent

Dated: \_\_\_\_\_

Honeywell International Inc., Respondent

Dated: \_\_\_\_\_

Hunter Fan Company, Respondent

Dated: \_\_\_\_\_

Invensys, Inc., Respondent

Dated: \_\_\_\_\_

ITT Corporation, Respondent

Dated: \_\_\_\_\_

Crane, Respondent

Dated: \_\_\_\_\_

Climate Master, Inc., Respondent

Dated: \_\_\_\_\_

Empire Comfort Systems, Respondent

Dated: \_\_\_\_\_

General Electric Company, Respondent

Dated: Feb 5, 2016

original signed by Mark Winston

Honeywell International Inc., Respondent

Dated: \_\_\_\_\_

Hunter Fan Company, Respondent

Dated: \_\_\_\_\_

Invensys, Inc., Respondent

Dated: \_\_\_\_\_

ITT Corporation, Respondent

Dated: \_\_\_\_\_

Crane, Respondent

Dated: \_\_\_\_\_

Climate Master, Inc., Respondent

Dated: \_\_\_\_\_

Empire Comfort Systems, Respondent

Dated: \_\_\_\_\_

General Electric Company, Respondent

Dated: \_\_\_\_\_

Honeywell International Inc., Respondent

Dated: 2/5/2016 original signed by \_\_\_\_\_

Hunter Fan Company, Respondent

Dated: \_\_\_\_\_

Invensys, Inc., Respondent

Dated: \_\_\_\_\_

ITT Corporation, Respondent

Dated: \_\_\_\_\_

Crane, Respondent

Dated: \_\_\_\_\_

Climate Master, Inc., Respondent

Dated: \_\_\_\_\_

Empire Comfort Systems, Respondent

Dated: \_\_\_\_\_

General Electric Company, Respondent

Dated: \_\_\_\_\_

Honeywell International Inc., Respondent

Dated: \_\_\_\_\_

Hunter Fan Company, Respondent

Dated: 1/27/16

original signed by Peter Wexler

Invensys, Inc., Respondent

Dated: \_\_\_\_\_

ITT Corporation, Respondent

Dated: \_\_\_\_\_

Crane, Respondent

Dated: \_\_\_\_\_

Climate Master, Inc., Respondent

Dated: \_\_\_\_\_

Empire Comfort Systems, Respondent

Dated: \_\_\_\_\_

General Electric Company, Respondent

Dated: \_\_\_\_\_

Honeywell International Inc., Respondent

Dated: \_\_\_\_\_

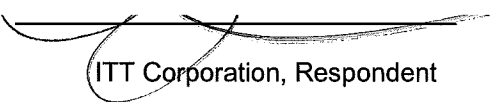
Hunter Fan Company, Respondent

Dated: \_\_\_\_\_

Invenys Inc. Respondent

Dated: 1/29/16

original signed by Craig E. Johnson

  
ITT Corporation, Respondent

Dated: 1/27/2016

original signed by Steven W. Keane

✓  
Johnson Controls, Respondent  
by: *Steven W. Keane*  
*VP+GC-GE North America*

Dated: \_\_\_\_\_

Lear Siegler, Respondent

Dated: \_\_\_\_\_

Lennox International Inc., Respondent

Dated: \_\_\_\_\_

Lux Products, Respondent

Dated: \_\_\_\_\_

The Marley-Wylain Company, Respondent

Dated: \_\_\_\_\_

Nortek Global HVAC, LLC, Respondent

Dated: \_\_\_\_\_

Sears Holdings, Respondent

Dated: \_\_\_\_\_

Thomas & Betts Corporation, Respondent

Dated: \_\_\_\_\_

Johnson Controls, Respondent

Dated: 2/3/16 \_\_\_\_\_ original signed by James F. Matthews

Lear Siegler, Respondent

Dated: \_\_\_\_\_

Lennox International Inc., Respondent

Dated: \_\_\_\_\_

Lux Products, Respondent

Dated: \_\_\_\_\_

The Marley-Wylain Company, Respondent

Dated: \_\_\_\_\_

Nortek Global HVAC, LLC, Respondent

Dated: \_\_\_\_\_

Sears Holdings, Respondent

Dated: \_\_\_\_\_

Thomas & Betts Corporation, Respondent

Dated: \_\_\_\_\_  
Johnson Controls, Respondent

Dated: \_\_\_\_\_  
Lear Siegler, Respondent

Dated: 04 FEB 16 original signed by John Hurst  
Lennox International Inc., Respondent

Dated: \_\_\_\_\_  
Lux Products, Respondent

Dated: \_\_\_\_\_  
The Marley-Wylain Company, Respondent

Dated: \_\_\_\_\_  
Nortek Global HVAC, LLC, Respondent

Dated: \_\_\_\_\_  
Sears Holdings, Respondent

Dated: \_\_\_\_\_  
Thomas & Betts Corporation, Respondent



Dated: \_\_\_\_\_  
Johnson Controls, Respondent

Dated: \_\_\_\_\_  
Lear Siegler, Respondent

Dated: \_\_\_\_\_  
Lennox International Inc., Respondent

Dated: February 5, 2016  
original signed by Robert Munin  
Name: Robert Munin, President  
Lux Products Corporation, Respondent

Dated: \_\_\_\_\_  
The Marley-Wylain Company, Respondent

Dated: \_\_\_\_\_  
Nortek Global HVAC, LLC, Respondent

Dated: \_\_\_\_\_  
Sears Holdings, Respondent

Dated: \_\_\_\_\_  
Thomas & Betts Corporation, Respondent

Dated: \_\_\_\_\_

Johnson Controls, Respondent

Dated: \_\_\_\_\_

Lear Siegler, Respondent

Dated: \_\_\_\_\_

Lennox International Inc., Respondent

Dated: \_\_\_\_\_

Lux Products, Respondent

Dated: Jan 28, 2016

original signed by John Swann



The Marley-Wylain Company, Respondent

Dated: \_\_\_\_\_

Nortek Global HVAC, LLC, Respondent

Dated: \_\_\_\_\_

Sears Holdings, Respondent

Dated: \_\_\_\_\_

Thomas & Betts Corporation, Respondent

Dated: \_\_\_\_\_  
Johnson Controls, Respondent

Dated: \_\_\_\_\_  
Lear Siegler, Respondent

Dated: \_\_\_\_\_  
Lennox International Inc., Respondent

Dated: \_\_\_\_\_  
Lux Products, Respondent

Dated: \_\_\_\_\_  
The Marley-Wylain Company, Respondent

Dated: 2/4/2016 original signed by Ron Hayer  
Nortek Global HVAC, LLC, Respondent

Dated: \_\_\_\_\_  
Sears Holdings, Respondent

Dated: \_\_\_\_\_  
Thomas & Betts Corporation, Respondent

Dated: \_\_\_\_\_  
Johnson Controls, Respondent

Dated: \_\_\_\_\_  
Lear Siegler, Respondent

Dated: \_\_\_\_\_  
Lennox International Inc., Respondent

Dated: \_\_\_\_\_  
Lux Products, Respondent

Dated: \_\_\_\_\_  
The Marley-Wylain Company, Respondent

Dated: \_\_\_\_\_  
Nortek Global HVAC, LLC, Respondent

Dated: 1/29/16 original signed by Stuart Gray, VP, Deputy General Counsel  
Sears Holdings, Respondent  
*Sears Holding Management Corp.*

Dated: \_\_\_\_\_  
Thomas & Betts Corporation, Respondent

Dated: \_\_\_\_\_

Johnson Controls, Respondent

Dated: \_\_\_\_\_

Lear Siegler, Respondent

Dated: \_\_\_\_\_

Lennox International Inc., Respondent

Dated: \_\_\_\_\_

Lux Products, Respondent

Dated: \_\_\_\_\_

The Marley-Wylain Company, Respondent

Dated: \_\_\_\_\_

Nortek Global HVAC, LLC, Respondent

Dated: \_\_\_\_\_

Sears Holdings, Respondent

Dated: 01/29/16

original signed by Michael J. Gieger

Michael J. Gieger

Thomas & Betts Corporation, Respondent

Dated: 2/5/2016

original signed by Heather Foran

Trane Residential Systems, Respondent

Dated: \_\_\_\_\_

\_\_\_\_\_

Uponor, Inc., Respondent

Dated: \_\_\_\_\_

\_\_\_\_\_

Vaillant Corporation, Respondent

Dated: \_\_\_\_\_

\_\_\_\_\_

W. W. Grainger, Respondent

Dated: \_\_\_\_\_

\_\_\_\_\_

White-Rodgers, Respondent

Dated: \_\_\_\_\_

\_\_\_\_\_

Rick Brausch  
Division Chief  
Department of Toxic Substances Control

Attachment

Exhibit A – List of Potential Program Participants

Exhibit B – Respondents' Plan for Compliance

Exhibit C – Assigned Docket Numbers

Dated: \_\_\_\_\_

Trane Residential Systems, Respondent

Dated: 2/4/2016

original signed by Bradley J. Beckman VP, FINANCE

Uponor, Inc., Respondent

BRADLEY J. BECKMAN

Dated: \_\_\_\_\_

Vaillant Corporation, Respondent

Dated: \_\_\_\_\_

W. W. Grainger, Respondent

Dated: \_\_\_\_\_

White-Rodgers, Respondent

Dated: \_\_\_\_\_

Pauline Batarseh  
Branch Chief  
Department of Toxic Substances Control

Attachment

Exhibit A – List of Potential Program Participants

Exhibit B – Respondents' Plan for Compliance

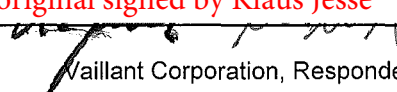
Exhibit C – Assigned Docket Numbers

Dated: \_\_\_\_\_

Trane Residential Systems, Respondent

Dated: \_\_\_\_\_

Uponor, Inc., Respondent

Dated: February 3, 2016 original signed by Klaus Jesse  
  
Vaillant Corporation, Respondent

Dated: \_\_\_\_\_

W. W. Grainger, Respondent

Dated: \_\_\_\_\_

White-Rodgers, Respondent

Dated: \_\_\_\_\_

Rick Brausch  
Division Chief  
Department of Toxic Substances Control

Attachment

Exhibit A – List of Potential Program Participants

Exhibit B – Respondents' Plan for Compliance

Exhibit C – Assigned Docket Numbers



Dated: \_\_\_\_\_

Trane Residential Systems, Respondent

Dated: \_\_\_\_\_

Uponor, Inc., Respondent

Dated: \_\_\_\_\_

Vaillant Corporation, Respondent

Dated: 1-27-2016 original signed by Richard Cole

W. W. Grainger, Respondent

Dated: \_\_\_\_\_

White-Rodgers, Respondent

Dated: \_\_\_\_\_

Pauline Batarseh  
Branch Chief  
Department of Toxic Substances Control

Attachment

Exhibit A – List of Potential Program Participants

Exhibit B – Respondents' Plan for Compliance

Exhibit C – Assigned Docket Numbers

Dated: \_\_\_\_\_

Trane Residential Systems, Respondent

Dated: \_\_\_\_\_

Uponor, Inc., Respondent

Dated: \_\_\_\_\_

Vaillant Corporation, Respondent

Dated: \_\_\_\_\_

W. W. Grainger, Respondent

Dated: Jan 27, 2011 original signed by Jack Huether  
\_\_\_\_\_

White-Rodgers, Respondent

Dated: \_\_\_\_\_

Pauline Batarseh  
Branch Chief  
Department of Toxic Substances Control

Attachment

Exhibit A – List of Potential Program Participants

Exhibit B – Respondents' Plan for Compliance

Exhibit C – Assigned Docket Numbers

Dated: \_\_\_\_\_

Trane Residential Systems, Respondent

Dated: \_\_\_\_\_

Uponor, Inc., Respondent

Dated: \_\_\_\_\_

Vaillant Corporation, Respondent

Dated: \_\_\_\_\_

W. W. Grainger, Respondent

Dated: \_\_\_\_\_

White-Rodgers, Respondent

Dated: February 10, 2016 original signed by Rick Brausch

Rick Brausch  
Division Chief  
Department of Toxic Substances Control

Attachment

Exhibit A – List of Potential Program Participants

Exhibit B – Respondents' Plan for Compliance

Exhibit C – Assigned Docket Numbers

# EXHIBIT A

## List of Potential Program Participants

List of potential program participants in California that may be generators or handlers of mercury-added thermostats.

1. Household Hazardous Waste Collection Facilities
2. HVAC contractors
3. Demolition contractors
4. General contractors
5. Local building departments
6. Utility companies
7. School districts
8. Property management companies of multi-family housing developments
9. Property management companies of commercial/industrial properties
10. Hotel/motel managers and maintenance companies
11. Consumers
12. Retailers
13. Universities and Colleges
14. Any other group who may handle mercury-added thermostats

# EXHIBIT B

## Respondents' Plan For Compliance

### RESPONDENTS' PLAN FOR COMPLIANCE

B-1. Respondents shall conduct each of the following actions in accordance with the schedule set forth in this Exhibit:

#### B-1.1. TRC staff designation.

B-1.1.1. Within sixty (60) days of the Effective Date of this Order, Respondents shall designate and fill a position within TRC to oversee its California operations and Respondents' compliance with this Order.

B-1.1.2. Within five (5) days after the position has been filled, Respondents shall provide the Department with the name and contact information for the individual hired by TRC to perform this function, in accordance with the Notice provisions in Paragraph 5.1.

#### B-1.2. Consultants.

B-1.2.1. Within thirty (30) days of the Effective Date of this Order, Respondents shall secure consultative services to, at a minimum, develop the draft Outreach Plan defined in Paragraph B-1.3.1., the draft Pilot Project Plan described in Paragraph B-1.4.1., and the Program Modifications described in Paragraph B-1.5.1.

B-1.2.2. Within five (5) days of securing the consultant, Respondents shall provide the Department with the name of the consultant and contact information for the consultant, in accordance with the Notice provisions in Paragraph 5.1.

#### B-1.3. Outreach Plan.

B-1.3.1. Within ninety (90) days of the Effective Date of this Order, Respondents shall develop and submit to the Department for its review and approval a draft Outreach Plan. The goal of the plan is for the Respondents to make contact with persons, entities or businesses that may generate or collect mercury-added thermostats (at a minimum, the list in Exhibit A) for purposes of increasing Program participation so that the number of collected mercury-added thermostats increases. The activities in the Outreach Plan shall be designed to provide education about the Respondents' collection program and to engage and secure the participation of additional Program participants from the potential Program participant groups listed in Exhibit A. The outreach

# EXHIBIT B

## Respondents' Plan For Compliance

activities described in the Plan are to include provision of materials and program engagement tools developed for each potential Program participant and outreach timelines for each participant, and must seek the placement of additional bins to collect mercury-added thermostats from the identified Program participants. The draft Outreach Plan shall include a proposed implementation schedule which shall begin no later than sixty (60) days after submittal of the draft plan to the Department.

B-1.3.2. No later than sixty (60) days after submittal of the draft Outreach Plan to the Department, or upon approval of the plan by the Department, whichever occurs first, unless directed otherwise by the Department, the Respondents shall implement the plan in accordance with the provisions and schedule specified therein. The number and location (by street address) of any additional bins placed as a result of the Respondents' outreach activities shall be reported as part of the Respondents' monthly report on the progress of implementation of the Outreach Plan in accordance with Paragraph B-1.10. Respondents may terminate outreach efforts with any potential Program participant group identified in the approved Outreach Plan upon providing an explanation satisfactory to the Department for doing so. The Department's decision approving or disapproving the requested termination of outreach efforts shall be communicated to Respondents in writing and shall set forth the reasons therefor. Any other proposed modifications to the approved Outreach Plan shall be submitted to the Department in writing for its consideration and approval.

### B-1.4. Pilot Project Plan.

B-1.4.1. Within ninety (90) of the Effective Date of the Order, Respondents shall develop a Pilot Project Plan that includes a sufficient variety and number of pilot projects designed to assess the effectiveness of the use of monetary and other incentives to increase Program participation and the number of mercury-added thermostats collected. The Pilot Project Plan shall be informed by the results of Respondents' implementation of its Outreach Plan to the extent practicable. The Plan shall include a reasonable assortment of pilot projects that assess the use of monetary and nonmonetary incentives of different values with different program participants, and may differentiate the timing of the receipt of the incentive (immediate versus delayed). Examples of possible pilot projects include: (a) a cash payment or purchase price discount for large HVAC

# EXHIBIT B

## Respondents' Plan For Compliance

contractors eligible to receive a TRC collection box (those with seven or more technicians); (b) a cash payment or purchase price discount for consumers on any item purchased at the retail location for every mercury-added thermostat returned; or (c), a cash payment for each mercury-added thermostat submitted to household hazardous waste collection facilities. The Pilot Project Plan shall also include a proposed schedule for implementation of the pilot projects described therein which shall begin no later than sixty (60) days after submittal of the draft plan to the Department. The pilots specified in this subsection shall continue for a minimum of one year, to take into account any seasonal changes associated with mercury-added thermostat replacements.

B-1.4.2. No later than sixty (60) days after submittal of the draft Pilot Project Plan to the Department, or upon approval of the plan by the Department, whichever occurs first, unless directed otherwise by the Department, Respondents shall implement the Pilot Project Plan in accordance with its provisions and schedule. Within ninety (90) days of the completion of all activities described in the approved Pilot Project Plan, the Respondents shall submit a report describing the results of each of the pilot projects undertaken pursuant to the Pilot Project Plan and indicating which, if any, of the pilot projects will continue in conjunction with the Program Modifications implemented under Paragraph B-1.5.

### B-1.5. Program Modifications

B-1.5.1. Within two hundred and forty (240) days of the Effective Date of the Order, Respondents shall develop and submit to the Department for its review and approval a draft Program Modification Plan that includes specific proposals to modify the Program, taking into consideration information and data gathered as a result of implementation of the Pilot Project Plan and the Outreach Plan, to the extent such data are available. For each proposed modification, the Respondents shall include in the draft Program Modification Plan the specific data or information the proposed modification is based on, as well as the anticipated impact on mercury-added thermostat collections. For any element of the Respondents' existing Program that is proposed to remain unchanged, the Respondents shall include in the draft Program Modification Plan the specific data or information that supports the continuation of the Program element without change. The draft

# EXHIBIT B

## Respondents' Plan For Compliance

Program Modification Plan shall also identify the data and information that the Respondents will collect to assess the effectiveness of each Program modification in yielding increased Program participation and mercury-added thermostat collections. The draft Program Modification Plan shall include a proposed schedule for the Respondents to implement the identified modifications which shall begin no later than sixty (60) days after submittal of the draft plan to the Department.

B-1.5.2. No later than sixty (60) days after submittal of the proposed Program Modifications to the Department, or upon approval of the plan by the Department, whichever occurs first, unless directed otherwise by the Department, Respondents shall commence implementation of the proposed Program Modifications in accordance with its provisions. Respondents shall ensure that adequate resources are available to implement the approved Plan. The Respondents shall submit quarterly reports detailing their progress in implementing the Plan.

B-1.5.3. Respondents shall amend its Program from time to time, or as directed by the Department, as necessary to incorporate program enhancements that are informed by data collected pursuant to this Order and any other pertinent data, including the results of the outreach efforts and the pilot projects that were determined to contribute to the increased collection of mercury-added thermostats in California.

B-1.5.4. Nothing in this Order prevents or precludes any or all of the Respondents from submitting data at any time, including any data collected in carrying out the requirements of this Order and any other pertinent data, to the Department pursuant to California Code of Regulations, title 22, section 66274.4(b) requesting a modification of the performance requirements and/or the estimated number of mercury-added thermostats becoming waste annually, which request shall be timely considered by the Department.

B-1.6. Quarterly Reports. Respondents shall submit a report thirty (30) days after the end of every quarter on the number of mercury-added thermostats collected in the preceding quarter, the Program element or Program participant to which the collected thermostats are attributed, the Contractor State License number (if provided) for those bringing mercury-added thermostats to the collection bins, the number and location (by street address) of the collection bins (including the total



# EXHIBIT B

## Respondents' Plan For Compliance

number of additional bins placed since the prior quarterly report), and progress in implementing the Program Modification Plan as required in Paragraph B-1.5.2.

B-1.7. Public Input. The Department shall make any draft Plans submitted by Respondents pursuant to this Order available to the public immediately upon receiving the Plans. Nothing in this Order prevents the Department from incorporating any comments or feedback it receives from the public regarding the draft Plans into its review and approval process for the Plans in accordance with Paragraph 5.3 of this Order. Nothing in this paragraph prevents or precludes Respondents from invoking the dispute resolution provisions in Paragraph 16 if the Department requires incorporation of any such comments over Respondents' objection.

B-1.8. Non-Program Collections. For purposes of counting the mercury-added thermostats that are attributed to the Respondents towards the regulatory collection requirement, the Respondents may request the Department to allow inclusion of mercury-added thermostats that were that were not collected by TRC or other entities that are direct Program participants. Any such request by Respondents shall include the rationale for giving credit to Respondents for these mercury-added thermostats collected by third parties, and shall demonstrate that the thermostats would not have been collected but for the efforts of one or more of the Respondents. The Department shall evaluate any such request made by the Respondents and shall communicate its decision in writing to the Respondents within thirty (30) days of such request unless the Department notifies the Respondents that additional time is required for its response. The Department shall explain the basis for its decision in the written communication with the Respondents.

B-1.9. California Expenditures. In addition to expenditures reported to the Department in accordance with California Health and Safety Code section 25214.8.13, subdivision (i), Respondents shall in the annual report account for and report on the total amount of expenditures that were made in connection with the Program in California for the year covered by the report, including those expenditures in developing and implementing the Outreach Plan, the Pilot Project Plan and the Program Modification Plan. The expenditures included in the annual report and attributed to California's collection program may include a portion of the costs incurred by TRC on a

# EXHIBIT B

## Respondents' Plan For Compliance

national basis so long as the amount is a reasonable estimate of the portion of the national costs that are attributable to implementation of the national collection program in California. The annual report may include expenditures by TRC as well as those made individually by the Respondents.

B1.10. Early Actions and Additional Activities. Upon the Effective Date of the Order and continuing at least through the date upon which implementation of the Program Modification Plan is scheduled to commence, the TRC Project Manager designated pursuant to Paragraph B-1.1, and/or the consultant retained in accordance with Paragraph B-1.2, shall meet with the Department at least once monthly, or such alternate period as the Department and the TRC Project Manager may agree, to report on the progress of implementation of the Outreach Plan and Pilot Project Plan, and to discuss information that Respondents have gathered in the course of implementation of these plans that would support potential modifications or enhancements to the collection program. The monthly meetings with the Department shall also include discussion of possible modifications to the program that could be implemented prior to the development of the Program Modification Plan required pursuant to Paragraph B-1.5. Respondents agree to implement at the earliest practicable time any such "early actions" that are determined by the Department, in consultation with Respondents and the TRC Project Manager, to be likely to result in increased collections. Any proposed modifications to the approved plans shall also be submitted to the Department in writing for its consideration and approval. Nothing herein shall preclude Respondents from conducting additional activities not otherwise specified in the approved plans during the 2015 and 2016 calendar years or thereafter to contribute to achievement of the performance requirements identified in California Code of Regulations, title 22, section 66274.5.

B-1.11. The Department Cost Reimbursement. Within forty five (45) days of the Effective Date of the Order, Respondents shall enter into a Cost Reimbursement Agreement with the Department pursuant to which Respondents agree to reimburse the Department for its costs incurred in overseeing the implementation of this Order and for conducting certain activities on behalf of the Program that are conducted solely for the purpose of increasing Program participation and mercury-added thermostat collections, as specified in a Scope of Work that shall be included as

# EXHIBIT B

## Respondents' Plan For Compliance

an exhibit to the Cost Reimbursement Agreement. The Department's level of effort in performing this oversight function, and Respondent's obligation to reimburse the Department, shall correspond to the cost of one full-time equivalent employee (1.0 FTE), at the Environmental Scientist level, annually for the duration of the period the Cost Reimbursement Agreement is in effect. At any time during the period the Cost Reimbursement Agreement is in effect, Respondents may request a review and modification of the Department's level of effort and the identified Scope of Work in accordance with the provisions of the Cost Reimbursement Agreement. The types of costs that shall be reimbursable include, but are not limited to: (a) the cost of reviewing and approving the deliverables specified in this Order; (b) the Department's costs (travel costs, per diem costs and time) in assisting the Respondents in interacting with Program participants and potential Program participants; (c) the Department's costs (travel costs, per diem costs and time) in interacting directly with Program participants and potential Program participants; and (d) participating with and providing feedback to the Respondents in the meetings that are to be scheduled in accordance with the terms of this Order ("Department's Oversight Costs"). The Department shall keep accurate books and accounts of the Department's Oversight Costs, and such books and accounts may be audited by Respondents upon written request. The Department shall semi-annually submit to Respondents an invoice for the Department's Oversight Costs, and only invoice Respondents for its actual costs. If Respondents disagree with an invoice, or a specific line item on an invoice, they may invoke the dispute resolution provisions in Paragraph 16 of the Order. Respondents shall, within thirty (30) calendar days of the invoice date, unless the Respondents have invoked Paragraph 16 (Dispute Resolution Procedure) before this thirty (30) day period has passed, remit a check for the full invoiced amount made payable to the Department of Toxics Substance Control. The remitted check shall also reference the Docket Number of this Order.

# EXHIBIT C

## Assigned Docket Numbers

The table below shows the Respondent and the assigned Docket Number on the same line.

Payments from Respondents shall identify the Respondent and the assigned Docket Number.

<b>Respondent</b>	<b>Docket Number</b>
Bard Manufacturing Company, Inc.	HWCA20157178
Burnham Holdings, Inc.	HWCA20157180
Carrier Corporation	HWCA20157203
Chromalox	HWCA20157181
Crane	HWCA20157183
Climate Master, Inc.	HWCA20157182
Empire Comfort Systems	HWCA20157185
General Electric Company	HWCA20157186
Honeywell International Inc.	HWCA20157188
Hunter Fan Company	HWCA20157189
Invensys, Inc.	HWCA20157191
ITT Corporation	HWCA20157192
Johnson Controls	HWCA20157193
Lear Siegler	HWCA20157196
Lennox International Inc.	HWCA20157194
Lux Products	HWCA20157179
The Marley-Wylain Company	HWCA20157200
Nortek Global HVAC, LLC	HWCA20157195
Sears Holdings	HWCA20157199
Thomas & Betts Corporation	HWCA20157201
Trane Residential Systems	HWCA20157190
Uponor, Inc.	HWCA20157204
Vaillant Corporation	HWCA20157205
W. W. Grainger	HWCA20157206
White-Rodgers	HWCA20157207