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Secretary for
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Department of Toxic Substances Control

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October 7, 2016

Mr. Steve Hellem
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APPROVAL OF OUTREACH PLAN AND PILOT PROGRAMS PLAN WITH MODIFICATIONS

Dear Mr. Hellem:

The Department of Toxic Substances Control (DTSC) has completed its review of the Thermostat Recycling Corporation's (TRC) revised plans titled "Outreach Plan for the Collection of Mercury Added Thermostats in California" (Outreach Plan) and "Pilot Programs Plan: Assessing Monetary and Nonmonetary Incentives to Increase the Collection of Mercury Added Thermostats in California" (Pilot Programs Plan). Both plans, submitted on August 8, 2016, were prepared by S. Groner Associates on behalf of TRC.

Each of the plans was revised based on the findings and comments presented in DTSC's July 8, 2016 disapproval letter. Based on its review of the revised plans, DTSC is approving both plans, but is requiring the following modifications:

Outreach Plan

Due to TRC conducting outreach to the potential program participant groups in phases, and will be conducting scoping activities for the groups in the next phase during implementation of the previous phase, TRC is required to submit to DTSC an Outreach Plan for Group B participants on or before February 7, 2017, and an Outreach Plan for Group C participants on or before June 6, 2017. The Outreach Plans for Group B and Group C must be reviewed and approved by DTSC prior to their implementation by TRC.

Pilot Programs Plan

1. In implementing its proposed Retail Collection Pilot, rather than test any incentive payment values less than \$5, TRC is to test only the \$5 and \$10 incentive payment amounts.
2. TRC is to implement a pilot project that provides a \$10 per thermostat incentive payment (using either a mail-in rebate or gift card) to anyone who turns in thermostats at household hazardous waste collection facilities. This type of pilot project was proposed in TRC's May 10, 2016 draft Pilot Programs Plan but removed from its August 8, 2016 submittal.
3. TRC is to implement a pilot project that provides \$100 mail-in rebate for each bin returned by wholesalers that contain 40 or more thermostats, and for bins with less than 40 thermostats, a pro-rated amount of \$2.50 for each thermostat in the returned bin. Although a pilot project of this type was not included in the May 10, 2016 or the August 8, 2016 pilot project plans, DTSC notes that the return rate for wholesaler return of collection bins has remained around 55%. A return rate this low, in the primary participant group that has been the focus of TRC's program, is troubling, and it is important for TRC to explore methods to improve the collections in these bins, and the rate of their return.
4. The current Pilot Programs Plan contains no pilot projects that apply to Group B and Group C participants because TRC has not yet conducted outreach to the potential program participants in Group B and Group C. To test incentives for participants in these two groups, TRC is required to submit a Pilot Project Plan for Group B participants on or before February 7, 2017 and a Pilot Project Plan for Group C participants on or before June 6, 2017.

DTSC also reminds you that the February 10, 2016 Consent Order requires the manufacturers to submit a Program Modification Plan by October 7, 2016. Although TRC has been awaiting DTSC's approval of its Outreach Plan and its Pilot Programs Plan, and will not yet have implemented those plans or gathered the information that implementing those plans will produce, DTSC sees no reason changes to the collection program could not be identified or proposed. This is especially true given the obligations for TRC and the manufacturers to collect a specified number of thermostats remain in effect (see California Code of Regulations, title 22, section 66274.5, which requires that 131,300 thermostats be collected in 2016 and 147,750 in 2017). As DTSC has stated in its prior comments, unless TRC takes immediate aggressive action to collect additional thermostats, TRC is unlikely to collect a sufficient number of mercury thermostats to be in compliance with DTSC's regulations. DTSC strongly recommends that TRC and the manufacturers not wait for DTSC's approval of plans that describe the

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outreach and pilot activities, or wait for the information to be produced from those efforts to inform the program, but take any actions necessary to achieve compliance with the collection requirements. Paragraph B-1.10 of the Consent Order contemplated early or additional action by the manufacturers and TRC, and did not preclude TRC from taking such actions "to contribute to achievement of performance requirements identified in California Code of Regulations, title 22, section 66274.5." DTSC is eager to receive the Program Modification Plan and learn about the changes that TRC and the manufacturers propose for the program.

DTSC looks forward to working with TRC during its implementation of its collection program, as well as the implementation of the Outreach and Pilot Program Plans, as modified above. If you have any questions about anything in this letter or DTSC's required modifications, please do not hesitate to contact Mr. Donn Diebert at (916) 322-2505 or by email at Donn.Diebert@dtsc.ca.gov.

Sincerely,



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