

**Public Comments Received on Manufacturers' Revised Draft
Outreach and Pilot Project Plans**

As of August 29, 2016

Comment 1

From: aventura@cleanwater.org
To: Thermostats@DTSC
Cc: [Avila, Renee@DTSC](mailto:Avila_Renee@DTSC); [Diebert, Donn@DTSC](mailto:Diebert_Donn@DTSC); [Brusch, Rick@DTSC](mailto:Brusch_Rick@DTSC); [Lennett, David](mailto:Lennett_David)
Subject: Comments on Manufacturers' Revised Outreach and Pilot Project Plans
Date: Thursday, August 25, 2016 12:02:46 AM
Attachments: [Comments on August 8 TRC Revised CA Outreach and Pilot Plans - Aug 24 Draft - clean \(1\).pdf](#)

Please find attached comments by NRDC, Clean Water Action, and eight other environmental and health organizations on the mercury thermostat manufacturers' revised Outreach Plan and Pilot Project Plan. We appreciate your consideration of these comments and invite you to contact us with any questions that you may have.

Sincerely,

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COMMENTS ON TRC'S REVISED OUTREACH AND PILOT PROJECT PLANS

August 25, 2016

Introduction

As we recommended, the Department of Toxic Substances Control (DTSC) rejected the initial Pilot Project and Outreach Plans submitted by the Thermostat Recycling Corporation (TRC) under the terms of the February 10, 2016 Consent Order. The Plans were grossly deficient, both in scope and level of effort.

On August 8, 2016 TRC submitted revised Plans. While these Plans are improved over the previous submissions, they remain deficient in critical areas as explained below.

Pilot Project Plan and Financial Incentive Elements of Outreach Plan¹

1. TRC proposes three retail incentive pilot locations over the next year, one each in the southern, central and northern parts of the state. While three locations is better than the one originally proposed, it is still too limited an effort given the size of the regions in

¹ While the Revised Pilot Project Plan proposes just the retailer pilot, other financial incentive proposals are embedded in the Revised Outreach Plan. In this portion of our comments, we address all the financial elements proposed, and not proposed, by TRC in either the Revised Pilot Project or Outreach Plans. We recommend that DTSC require TRC to submit a revised Pilot Project Plan incorporating all the financial elements eventually approved by the Department, to facilitate management and analysis of the incentive elements during implementation.

California and TRC's performance deficit. TRC admits the "central aim" of the pilot is to derive data on responses to various incentive amounts,² but as DTSC pointed out in its Findings and Comments on the original plans, TRC must now present strategies intended to fulfill multiple goals, most notably sharply increasing thermostat collection statewide.³ Accordingly, the number of pilot locations should be at least doubled over the first year, including locations experiencing high levels of building/renovation activity, and a plan for extending the retailer incentive program statewide submitted no later than June 2017.

2. TRC proposes four different incentive amounts for the retailer pilot: none, \$2.50, \$5.00, and \$10.00. We note the proposed retailer pilot project is based upon successful programs in Maine and Vermont, where the \$5.00 incentive is provided. Given the demonstrated success of those two programs, and the overriding need to improve collection performance in California, we oppose the zero and \$2.50 proposals.⁴ DTSC should not tolerate another year of substandard collection results so that TRC can engage in a research project aimed solely at saving money. The minimum incentive amount to be used should be what has been successful in other states.⁵ We do commend TRC for proposing only the immediate financial incentive, dropping the delayed option in the original plan.

3. The public outreach tactics associated with the retailer pilot are too limited in ambition and scope. Very little effort is provided to reach consumers in their home, other than internet mechanisms many consumers are unlikely to use. In the Revised Outreach Plan, other outreach mechanisms such as store weekly ads and utility inserts are identified, but the Revised Pilot Project Plan is notably silent regarding application of these mechanisms, including details and timing. In our view, weekly ads within the retailer pilot service area should frequently highlight the incentive program, with instructions on how to participate. Mass media, such as bus and other transit advertisement, should be utilized as well.

4. We do not fully understand the purpose of the retailer selection pros and cons discussion in the Revised Pilot Project Plan on page 7. TRC should be required to engage as many retailers as possible, instead of focusing on one retailer category. Blanket coverage of the pilot locality is the desired objective. DTSC should actively

² TRC Revised Pilot Project Plan, p. 3.

³ DTSC Findings and Comments, July 8, pp. 5-6.

⁴ We note TRC offers no justification for the \$2.50 amount, and no evidence it will affect behavior as needed. In addition, there is no need for a zero "control" since the financial incentives are not yet being implemented statewide.

⁵ While TRC claims there will be no cross-contamination of incentive amounts between pilots (Revised Pilot Plan, p. 3), TRC proposed four different amounts for three locations, thereby creating cross-contamination of results. It is very unclear how TRC proposes to apply the zero incentive statewide.

monitor TRC's efforts in this regard, and one metric for the retailer pilot should be the percentage of retailers (of all categories) within the locality participating in the pilot.

5. The non-monetary component of the Revised Pilot Project Plan confuses us. To the extent it merely explains testing various messaging themes and mechanisms, we repeat our observation above that the included approaches are too internet-driven, since many consumers buying from store-front retailers make decisions in their homes based on weekly ads and other mass media. To the extent TRC is proposing non-monetary incentives as a substitute for a financial incentive, as we noted above, a minimum \$5.00 incentive should be required for the retailer pilot.

6. In its May 10 Pilot Project Plan, TRC proposed a mail-in rebate for consumers returning thermostats to HHW facilities.⁶ This incentive element is notably absent in the Revised Pilot Project Plan, without explanation. DTSC should mandate that TRC provide HHW facilities statewide with instant \$5.00 coupons or gift cards redeemable at a host of hardware stores or other retail establishments. Gift cards are commonly used,⁷ making use of cumbersome mail-in rebate models both unnecessary and counterproductive.

7. Embedded in the Revised Outreach Plan is a proposal to provide large contractors \$2.50 for the return of each thermostat.⁸ This proposal is inadequate both with respect to the incentive amount and the lack of variety as called for in the Consent Order. TRC provides no justification for this amount,⁹ and it is demonstrably less than the \$5.00 financial incentives provided in Maine and Vermont. Moreover, the incentive payment is delayed for as much as a year (until the collection bin is returned), thereby minimizing the attraction of the incentive. This combination of a small incentive, and the payment delay, is extremely problematic, particularly since program expansion for large HVAC contractors is a very high priority over the next several years.¹⁰ Indeed, given the need to test higher amounts under the Consent Order and the thermostat collection statute, the importance of large HVAC contractors to eventual program success, and the direct relationship thermostat manufacturers have with many large HVAC contractors, we urge DTSC to require TRC to develop a Pilot Plan for large HVAC contractors that provides a

⁶ TRC May 10 Pilot Project Plan, p. 20.

⁷ Lessons Learned: Voluntary Mercury Thermostat Take Back Programs, Product Stewardship Institute, May 2016, p. 5.

⁸ TRC Revised Outreach Plan, p. 8.

⁹ As DTSC indicated in previous July 8 Findings and Comments on the original Pilot Project Plan (p. 16), absent data from existing programs, TRC has no basis for determining whether these lesser incentives will be of value.

¹⁰ We note in Illinois, 24% of thermostat returns in 2015 originated from large HVAC contractors, as compared to less than 1% in California. See TRC 2015 Illinois Report, p. 2; TRC 2015 California Report, p. 2, available at http://www.thermostat-recycle.org/resources/media_center.

financial incentive significantly exceeding \$5.00 (i.e., \$10.00/thermostat), either in the form of discounts on new thermostat purchases or cash/gift cards.¹¹

8. For HVAC contractors returning thermostats to wholesalers, TRC proposes a points program, whereby the contractor receives 600 points for each thermostat returned.¹² TRC indicated prizes become redeemable at 4800 points (8 thermostats), but TRC provides no monetary value associated with the prizes redeemable at that point level or any other point level. Nor does TRC provide any justification for the approach, or any evidence it has been successful anywhere. In contrast, Maine and Vermont have demonstrated success with a \$5.00 financial incentive, and these programs would be even more successful if the incentive payment is not unduly delayed as currently constructed in those states. DTSC should reject this aspect of TRC's proposal absent substantially more detail, and require at least an immediate \$5.00 monetary incentive (in the form of gift cards for example).

9. No incentives are provided to HVAC wholesalers for participating in the program or aggressively marketing the program to its HVAC contractor customers. The lack of wholesaler participation is a significant contributor to lack of program access, and needs to be rectified. Only letters and phone calls are proposed to promote wholesaler participation in the Revised Outreach Plan.¹³ TRC offers no evidence this approach will be successful. We recommend DTSC require TRC to investigate which incentives would facilitate wholesaler full engagement in the program, as part of the initial phase of the Outreach Plan, and then propose an incentive component for HVAC wholesalers at the end of Phase 1 of the Outreach Plan. DTSC should also conduct its own independent inquiries of wholesalers to better understand possible incentive models.

10. Finally, for Group B and Group C potential program participants, as identified in TRC's Revised Outreach Plan, the scoping exercise conducted prior to implementation should include information gathering related to financial and other incentives which may be required to promote program participation. At the end of each scoping period, TRC should be required to propose a Pilot Project Plan for each Group, subject to public comment and DTSC review and approval.

Outreach Plan

Phase 1 of TRC's Outreach Plan appropriately prioritizes HVAC, demolition, and general contractors, as well as consumers and Household Hazardous Waste (HHW)

¹¹ Ten dollar incentive amounts have been offered by Covanta, in Oklahoma, and in Maine. See e.g., Lessons Learned: Voluntary Mercury Thermostat Take Back Programs, Product Stewardship Institute, May 2016, p. 5.

¹² TRC Revised Outreach Plan, p. 9.

¹³ TRC Revised Outreach Plan, p. 18.

programs, retailers, and wholesalers. However, we do not see much new in the plan tactics and metrics; just a higher level of effort on the mechanisms TRC has proposed in the past. There are specific weaknesses in the proposed outreach that need to be addressed in order to ensure success in collecting mercury thermostats:

1. While S. Groner Associates, Inc. will be responsible for building awareness about the collection program and maximizing proper disposal of mercury added thermostats in California, it is unclear whether the firm will actually staff events, attend conferences, or personally meet with potential participants, both on the collection site (bin) side or with those needing to dispose of mercury thermostats properly. This is a significant issue given that the outreach plan is particularly lacking in “boots on the ground” efforts to meet with potential participants. The plan should include extensive personal outreach to trade associations that represent the various Phase 1 participant groups in order to identify the largest contractors and HHW facilities in the state, as well as the appropriate personnel at the wholesalers and various types of retailers in California. This should be followed or accompanied by in-person meetings with key HHW operators, large contractors, and retailer managers, along with TRC attendance at appropriate professional conferences for each constituency.

Mailed or Internet outreach should be partnered with personal follow-up. For instance, on page 10, TRC mentions that 37 “Wholesale branches throughout California have been mailed letters with information about the Program, encouraging these locations to sign-up for free collection bins” (similar letters were mailed to other types of constituents as well). However, there is no mention of any in-person follow-up. Consequently, measuring success by the number of letters mailed is meaningless. In the end, success is measured by the number of bins placed and *mercury thermostats collected*. For large wholesalers, retailers, or other potential participants there needs to be personal visits, management engagement, and incentivizing participation. There is precedent for this. Ace Hardware has hosted bins in other states because they see a competitive advantage in doing so. TRC should explore why Ace has taken this position and apply the same reasoning in their outreach to other large retailers.

2. Despite our previous recommendation, TRC is still not exploiting the manufacturers’ sales staff as an avenue of identifying collection sites and building participation in the program. We continue to believe that this is a lost opportunity that could reap better identification of entities, appropriate staff at the entities, and designing effective incentive/collection programs.

3. A focus on Google Ads, Facebook, You Tube and other Internet dependent outreach has been a typical TRC tactic without any substantiating evidence that their intended

audiences spend time on the Internet or respond to it. What we do know is that this strategy has failed to reap adequate benefits in other states and is therefore inadequate as a primary strategy to reach both professionals and consumers in California. Instead, TRC should invest in working with retail and wholesale outlets to advertise the program and collection sites in weekly flyers. This is potentially the most important outreach vehicle to increase the penetration rate to consumers and professionals by getting information into the home.

Other avenues to consider are broadcast and print media, and other creative public outreach such as billboards and posters on public transit vehicles.¹⁴ In addition TRC should partner with local agencies (such as HHW and solid waste departments) and trade associations that send information to residents or professional constituents. TRC should also partner with retailers who offer in-store classes for do-it-yourselfers, in order to incorporate proper disposal of mercury thermostats into those programs. In other words, TRC should sell this program the same way its company members market their products-with the same intensity, common sense, and creativity.

4. One day events could be effective in publicizing mercury thermostat programs but are not alternatives for on-going collection and promotion. In addition, TRC investment in these events should reflect the size of the state as compared to Vermont on which they are basing their plan. Two events per region is a miserly effort given the amount of ground TRC has to make up from its years of failing to meet state requirements. Instead of measuring success by the number of events (along with the number of mercury thermostats collected per event), TRC should be looking at the percentage of stores/HHW facilities covered in California (10%, 20%, etc.) to ensure they are addressing the size of the state and its marketplace.

5. In addition to measuring the success of events in terms of percentages (see comment above), a similar metric should be used to describe the success of engaging retailers and wholesalers to host collection bins. In addition, it is not the number of materials (such as flyers) placed in stores that matters, but how successful TRC is at reaching the general public and professional entities across the state.

6. Subsequent outreach for constituents that TRC labels Group B and Group C (Phases 2 and 3) are lacking in overall detail or depth, and are therefore not possible to evaluate at this time. Therefore, the scoping/exploratory exercises contemplated for Groups B and C should be used to gather information and provide the necessary details. Accordingly, the Department of Toxic Substances Control should require TRC to submit

¹⁴ Lessons Learned: Voluntary Mercury Thermostat Take Back Programs, Product Stewardship Institute, May 2016, pp. 10-11.

a more detailed Outreach Plan for Phases 2 and 3 that is informed by the scoping activities at the end of each scoping period.

Respectfully submitted,

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Comment 2

From: [Kohorst, Mark](#)
To: Thermostats@DTSC
Subject: NEMA comment on Latest Mercury Thermostat Collection Plans
Date: Friday, August 26, 2016 1:53:28 PM
Attachments: [CA - NEMA Comment on Outreach and Pilot Plans - Aug 2016.pdf](#)

To: Ms. Renee Avila
CA Dept of Toxic Substances Control

Please see attached letter providing comment on the "Outreach Plan for the Collection of Mercury Added Thermostats in California" and "Pilot Programs Plan: Assessing Monetary and Nonmonetary Incentives to Increase the Collection of Mercury Added Thermostats in California," submitted by 25 manufacturer participants in the Consent Order of February 2016.

If you have questions, please do not hesitate to contact me.

Sincerely,

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NEMA's 90th Annual Membership Meeting
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National Electrical Manufacturers Association

August 26^h, 2016

Renee Avila
Department of Toxic Substances Control
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**Re: NEMA comment on revisions to the draft Outreach and Pilot Program Plans
for mercury-added thermostat collection in California**

Dear Ms. Avila:

Three NEMA member companies – GE, Honeywell, and White-Rodgers – jointly established the non-profit Thermostat Recycling Corporation (TRC) in 1998 to provide a nationwide mechanism for safe disposal of mercury switch thermostats. As DTSC is well aware, the TRC now has 30 corporate members and is the only national program of its kind in the US.

On behalf of these founding members of the TRC, NEMA has reviewed the revised draft, outreach and pilot program plans for mercury thermostat collection in California dated August 8, 2016. In our view, the refinements made in this draft substantially improve the plans, increasing the likelihood they will provide the data and insight needed to refine TRC's program in the state in the most sensible and effective manner.

We have no further comment other than to encourage DTSC to approve these plans without further review. We understand the TRC staff and its consultants are poised to begin working with the department to implement the plans immediately upon your approval and see no benefit in further delay.

If you have any questions regarding these comments, please contact me directly at 703-841-3249, or Mar_Kohorst@nema.org. Thank you for your consideration.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Mark A. Kohorst', written in a cursive style.

Mark A. Kohorst
Senior Manager – Environment, Health & Safety