



GE
Energy Management

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By Federal Express

Ms. Pauline Batarseh, Chief
Policy implementation Branch
Policy and Program Support Division
Hazardous Waste Management Program
California Department of Toxic Substances Control
1001 I Street
P.O. Box 806
Sacramento, California 95812-0806

Re Response to Summary of Violation- General Electric Company

Dear Ms. Batarseh:

I am writing on behalf of General Electric Company (GE) in response to the Summary of Violations (SOV) from the Department of Toxic Substances Control (DTSC) dated July 3, 2014, for which the DTSC gave an extension of time to GE and other manufacturers to respond until October 10, 2014.

As we discussed on our October 1, 2014 call with you and other DTSC representatives, as a founding member of Thermostat Recycling Corporation (TRC), a not for profit corporation formed to address the recycling of mercury containing thermostats long before regulations required such recycling, GE is committed to the responsible management of mercury containing thermostats sold by GE in California. GE is also committed to working in good faith with the DTSC and the other TRC member manufacturers to resolve the issues leading to the issuance of the SOV.

A long-term solution requires a regulatory framework based on the following principles:

- Annual performance requirements that are reasonably attainable and based on credible data;

- Equitable distribution of collection obligations among manufacturers and other parties (e.g., HVAC contractors who routinely encounter installed mercury thermostats); and
- Equitable enforcement of collection and reporting obligations among manufacturers and other responsible parties.

GE looks forward to working with DTSC and the other stakeholders to revise the existing regulation, and, as a first step, we are prepared to support and to encourage among the TRC membership the commissioning of a new study to produce equitable and credible collection targets.

With respect to DTSC's "Review of Thermostat Recycling Corporation's 2013 Annual Report for California" dated August 25, 2014, as we discussed on our call, GE does not have the knowledge or expertise to respond to the specific questions as GE and the other TRC members have retained the staff at TRC to run the program. Following our call, GE requested of TRC to assist us and other members on a response to the specific questions and comments from DTSC, understanding that it is not feasible to provide such a response by October 10, 2014.

GE also is prepared to encourage other TRC members to work with GE and with the DTSC to identify mutually agreeable steps to attempt to enhance the recovery rates while we move toward the long term solution.

GE requests that DTSC at the same time assist GE and other TRC members in achieving improvements in the program by exercising its powers to affect the accuracy of the data on overall thermostat collections in California and to require participation by others who are collecting thermostats and those who are directly responsible under the Act, using enforcement when warranted.

For example, there are a lot of thermostat collection activities ongoing in California for which TRC members are not getting credit toward the performance requirement (e.g., retailers, municipal HHW collections). Perhaps you already have some of this information as a result of your settlements with Lowe's and other retailers for improper hazardous waste disposal. DTSC certainly has greater power to require this type of information be provided from both retailers and municipalities. In addition, more enforcement by DTSC against other responsible parties under section 52214.8.14 of the Act, such as non-cooperating wholesalers, retailers and contractors, would very likely improve participation and enhance collection rates.

Without waiving any legal rights, including the right to challenge the validity and application of the Mercury Thermostat Collection Act and its related regulations, GE acknowledges the conclusion in the SOV that GE "as a member of TRC...failed to meet the established collection rate performance requirement [in subdivision (a) of section 66274.5 of the California Code of Regulations] for calendar year 2013." However, this

conclusion in the SOV is based solely on the collections reported by TRC on behalf of its members and does not take into account uncounted collections by other parties. Nor does it take into account the non-cooperation of other parties subject to the requirements of the Act, against whom DTSC alone has the authority to enforce the requirements.

In summary, GE strongly encourages DTSC to temporarily suspend enforcement of the performance requirements as a good-faith measure of the agency's intent to work with manufacturers on short term efforts by both the manufacturers and the agency to enhance thermostat collection and on the long term solution of a practical, achievable and equitable regulation to ensure the collection of thermostats.

Thank you for your consideration of this response and proposal to work together on a solution to the problem of improper disposal of mercury thermostats in California.

Very truly yours,

A handwritten signature in black ink that reads "Bonnie Harrington". The signature is written in a cursive, flowing style.

Bonnie Harrington
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