

October 17, 2014

Writer's Direct Contact
+1 (415) 268.7350
MSteel@mofocom

By Email: Pauline.batarsch@dtsc.ca.gov

Ms. Pauline Batarseh
Chief
Policy Implementation Branch
Policy and Program Support Division
Hazardous Waste Management Program
Department of Toxic Substances Control
1001 I Street
Sacramento, CA 95812-0806

Re: Sears, Roebuck & Company – Thermostats – Summary of Violations Dated July 3, 2014

Dear Ms. Batarseh:

This letter responds to yours of July 3, 2014. As you know, we have had a number of conversations with your staff, representatives of TRC and other industry members since receiving your letter in an effort to better understand the issues you raised. Earlier this week we spoke with Robert Sullivan, Donn Diebert and Clyde West, who were able to provide us with some additional insight.

Sears is interested in finding realistic and effective ways to enhance the rate of thermostat recovery and is committed to working cooperatively with the Department to that end. However, we must make it clear from the outset that we do not agree with the legal interpretation put forth by the Department that each current and former manufacturer is in effect jointly and severally liable for compliance with the statute. Such an outcome would be particularly unfair to Sears, which has not offered a branded thermostat in its stores for many years, and never actually manufactured such devices. The devices were manufactured by other members of the TRC group.

In any event, Sears is generally supportive of the enhanced recovery efforts outlined in the attachment to your letter. Our understanding from TRC, however, is that there is still considerable work to be done to determine which measures are likely to have the greatest impact.

Ms. Pauline Batarseh
October 17, 2014
Page Two

More fundamentally, we understand from TRC and other larger industry players that the underlying study by Skumatz Economic Research Associates (SERA) was extremely weak, with data collection methods that do not withstand scientific scrutiny and result in only gross approximations of the number of thermostats still in service and the likely replacement rate. Given the challenges that are being encountered as we all try to actually achieve the goals derived from the SERA study, we believe that it is essential that a more accurate and precise study be undertaken and that more realistic and achievable goals be established. As things stand today, we are concerned that no matter how heroic the efforts to collect these thermostats might be, we will never achieve the targets set by the law based on this imprecise study.

As we mentioned in our call with your staff, we were not aware that members of the industry were trying to coordinate efforts to address the issues you raised, although we have strongly encouraged TRC to take a leadership role in evaluating improvements to the program it administers. We have contacted members of the Board of TRC to express our concern and our desire to be included in discussions of these issues.

As noted above, Sears is committed to working cooperatively with the Department to ensure that the goals we set are realistic and achievable and that the industry uses its best effort to reach those goals. In the meantime, please feel free to contact me if you have questions about this letter.

Sincerely,



Michael Jacob Steel

cc: Cary W. Mergele, Esq.
Vice President and Deputy General Counsel
Sears Holdings Management Corporation