



From: The New York Product Stewardship Council
Date: April 12, 2010
Re: Mercury Thermostat Recycling Legislation (A.10160-B)
Position: Support

The New York Product Stewardship Council (NYPSC) believes that the enactment of well crafted and workable mercury thermostat take-back legislation during this legislative session is critically important. This legislation would advance true product stewardship, shifting primary responsibility for mercury containing thermostat management at the end of a product's useful life from local taxpayers (or solid waste system ratepayers) to manufacturers.

The NYPSC strongly supports the adoption of legislation to mandate effective collection and recycling of mercury-containing thermostats in New York State. **Legislation is needed to substantially strengthen the current voluntary industry-funded system for collection and recycling of mercury thermostats established by the Thermostat Recycling Corporation (TRC).** While we have supported TRC's existing voluntary program, it has been inadequate. By their own records, TRC's program only collected 3,774 thermostats for all of New York State in 2008. This represents about 1% of the mercury-containing thermostats that are discarded each year in New York.

New York needs a product stewardship program for mercury thermostats that performs well, and prevents mercury thermostats from being disposed of as solid waste. **We support the legislation's requirement that manufacturers report the number of thermostats collected, and demonstrate a collection rate of 25% of mercury thermostats by June 1, 2013, and increase that collection rate to 65% by June 1, 2015.** Performance goals hold manufacturers accountable. Nearly all states assess the performance of mercury thermostat collection programs based on a collection rate (e.g., the number of thermostats collected compared to the number available for collection). Without performance goals based on collection rates, it is impossible to know how well a mercury thermostat collection and recycling program is working and whether a program is capturing a sufficient quantity of mercury thermostats to reduce risks to acceptable levels. However, we believe the legislation could be strengthened if those requirements were explicit in the manufacturers' requirements, not referenced in the department responsibilities.

Manufacturers should have flexibility to create a program that performs at least to the level required in the legislation. **We support the legislation's specification that the Department of Environmental Conservation has the authority to require changes to the manufacturers' program if either of the performance goals are not met, and to require a financial incentive if the 65% collection rate is not met in 2015.** However, the legislation could be strengthened if the financial incentive "trigger" were included as a set manufacturer responsibility, without requiring action from the agency.

Financial incentives are shown to boost collections significantly. Maine, which has the highest per capita collection rate for mercury-containing thermostats, was the first state to adopt this approach. Maine's mercury thermostat law requires manufacturers to provide a financial incentive of \$5 for every mercury-containing thermostat collected. While manufacturers may object to the cost of such incentives, evidence indicates a clear relationship between providing an incentive and achieving results. Maine's results are in line with three pilot projects. In 2006, a pilot program in Oregon offered \$4 to any contractor who brought in a discarded mercury thermostat. By the end of the pilot, the number of thermostats collected in Oregon increased 124%, from a baseline of 2,052 in 2005 to 4,587 in 2006. When the pilot was discontinued, the number of thermostats collected dropped significantly. Similar results were found in pilot incentive programs run by King County (Washington) and the Vermont Department of Environmental Conservation. The success of its pilot program led Vermont to adopt a thermostat collection program in 2008 that includes, among other provisions, a \$5 bounty for each mercury thermostat that is returned.

While sales of mercury-containing thermostats are on the decline as manufacturers have shifted production to non-mercury digital thermostats and many states have banned their sale, **an estimated 3 million mercury-containing thermostats are still in use in homes throughout the State of New York.** Those thermostats are coming off the wall every day. If not collected and recycled now, the potential for capturing this significant source of mercury will be forever lost.

This legislation could be strengthened by making it clear that the manufacturers are responsible for achieving the performance standards *and* for providing the financial incentive in the event that the 65% collection rate is not achieved in 2015. To this end, we suggest that the "Manufacturer Responsibilities" (Section 2) include this language.

We urge your support for this important product stewardship legislation.