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April 16, 2009

Senator Seth A. Goodall, Chair and
Representative Robert S. Duchesne, Chair
Joint Standing Committee on Natural Resources
100 State House Station
Augusta, ME 04333-0100

Dear Senator Goodall and Representative Duchesne,

I am writing to oppose draft amendments to LD 1042 proposed by the Thermostat Recycling Corporation (TRC). The Product Stewardship Institute, Inc. (PSI) is a national non-profit membership organization comprised of 45 state governments, over 75 local governments, and over 50 businesses, environmental groups, and other organizations that have pledged to work together to reduce the health and environmental impacts from consumer products. These stakeholders work cooperatively, through PSI, to develop and implement product stewardship solutions that share responsibility for safely managing consumer products across their entire life cycle, from design to reuse, recycling, and disposal. Maine's Department of Environmental Protection (ME DEP) is a long-time member of PSI and we have worked closely with the ME DEP over the past nine year.

LD 1042 was the result of a legislative agreement that PSI mediated among thermostat manufacturers, environmental groups, and the Maine Department of Environmental Protection (ME DEP). TRC was a party to that agreement and signed on to the law's requirements. Information pertaining to PSI's thermostat work appears on our website, at: www.productstewardship.us/Thermostats.

PSI opposes TRC's draft amendments to LD 1042 because they would substantially weaken the current system for mercury thermostat collection and recycling in Maine. Most concerning is TRC's proposed amendment to remove the mercury collection goals that are the centerpiece of Maine's law. TRC collected 5,555 mercury thermostats in Maine in 2007. According to the methodology PSI has developed with support from a coalition of states, that number represents about 15% of the mercury thermostats retired annually in Maine. TRC proposes to increase thermostat collections by 10% annually. If this committee accepts TRC's draft amendments, the percentage of mercury thermostats collected and recycled would increase incrementally to about

18% of the number of mercury thermostats available for recycling in 2009 and 20% in 2010. The rest will enter the waste stream and contaminate the environment.

PSI's estimate of the number of thermostats coming out of service is higher than the Maine DEP's. We estimate that 44,600 thermostats are being retired annually, while ME DEP's estimate is 32,768 thermostats. When TRC claims that it ME DEP's collection rate methodology is "flawed," as it has in its 2008 *Annual Report* to the ME DEP, it should acknowledge that PSI and states participating in our project to develop a common recycling rate methodology believe that Maine's methodology may underestimate, not overestimate, the number of thermostats being retired.

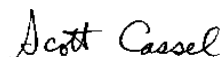
The following states have indicated their support for PSI's recycling rate methodology: California, Iowa, Illinois, Massachusetts, Maine, Minnesota, New Hampshire, and Wisconsin. These states explicitly reject TRC's approach to assessing performance that merely counts the number of thermostats collected each year and compares it to the number collected in the previous year. These states recommend that states assess the performance of their mercury thermostat collection programs based on a **recycling rate** (e.g., the number of thermostats collected compared to the number available for collection). A recycling rate places the number of thermostats collected into context. TRC's approach, in contrast, will tell lawmakers nothing about 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.

While sales of mercury-containing thermostats are on the decline as manufacturers have shifted production to non-mercury digital thermostats, an estimated 50 million mercury-containing thermostats are still in use in homes throughout the United States. 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.

Let me again express PSI's appreciation to the Joint Standing Committee on Natural Resources for spending the time necessary to understand this complex environmental issue, and to take action toward eliminating mercury emissions. PSI would welcome the opportunity to work with the Committee, manufacturers, state officials, and other key stakeholders to discuss a comprehensive strategy for collecting mercury thermostats and improving environmental quality.

Thank you for your consideration of this letter in support of LD 1042. The TRC's draft amendments represent a step backwards for Maine, which has been at the forefront of efforts to collect and recycle mercury thermostats.

Sincerely,



Scott Cassel
Executive Director/Founder

cc: Members, Joint Standing Committee on Natural Resources