

Split-system air conditioning heat pumps manufactured on or after January 23, 2006, must have a Seasonal Energy Efficiency Ratio (SEER) no less than 13 and a Heating Seasonal Performance Factor (HSPF) no less than 7.7.

FINDINGS

Based on ADP's certification, made through its third-party representative as described above, DOE has determined that basic model N2H348A(G)KB* + H,GE50560 + *8MPV125 and basic model N2H360A(G)KB* + H,GE50560 + MV16J22**B* do not meet the applicable DOE standards.

MANDATORY ACTIONS BY ADP

In light of the above finding, with respect to basic model N2H348A(G)KB* + H,GE50560 + *8MPV125 and basic model N2H360A(G)KB* + H,GE50560 + MV16J22**B*, ADP must take the following steps:

- (1) Immediately cease distribution in commerce of basic model N2H348A(G)KB* + H,GE50560 + *8MPV125 and basic model N2H360A(G)KB* + H,GE50560 + MV16J22**B*;
- (2) Provide immediate written notification to all persons to whom ADP has distributed the basic model N2H348A(G)KB* + H,GE50560 + *8MPV125 that the N2H348A(G)KB* + H,GE50560 + *8MPV125 combination does not meet the applicable standard;
- (3) Provide immediate written notification to all persons to whom ADP has distributed the basic model N2H360A(G)KB* + H,GE50560 + MV16J22**B* that the N2H360A(G)KB* + H,GE50560 + MV16J22**B* combination does not meet the applicable standard;
- (4) Provide written notification to all persons to whom ADP has distributed components of basic model N2H348A(G)KB* + H,GE50560 + *8MPV125 or basic model N2H360A(G)KB* + H,GE50560 + MV16J22**B* that those combinations do not meet the applicable standard;¹ and
- (5) Provide within 30 calendar days of the date of this letter any and all records, reports, and other documentation pertaining to the acquisition, ordering, storage, shipment, or sale of all N2H348A(G)KB* + H,GE50560 + *8MPV125 basic models, N2H360A(G)KB* + H,GE50560 + MV16J22**B* basic models, or any component thereof.

OPTIONAL ACTIONS BY ADP

In addition to the mandatory steps listed above that ADP must complete, ADP may make immediate changes to its products to bring them into compliance with the applicable standard.

¹ ADP should contact DOE to determine the best means to fulfill this notification requirement.

Should ADP opt to do so, the modified basic model shall be treated as a new basic model under the regulations and must be certified in accordance with the provisions of 10 CFR part 430. If ADP chooses this option, ADP shall also maintain records that demonstrate that the modifications have been made to all units of the new basic model prior to distribution in commerce.

Records addressing these new basic models shall be maintained for a period of time that is consistent with DOE's regulations for product certification -- i.e., for a period of two years from the date that production has ceased. *See* 10 CFR § 430.62(d).

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should ADP fail to immediately cease the distribution of the above models, this letter serves as notice that DOE will seek a judicial order within 15 calendar days of the date of this notice to restrain further distribution of these models. If, however, ADP provides DOE with a satisfactory statement within that 15-day period detailing the steps that ADP will take to ensure that all noncompliant models will no longer be distributed in commerce, DOE may elect to defer seeking such an order until a more appropriate time, if needed.

Should ADP fail to provide the required notifications or documentation identified above, DOE may seek civil penalties.

Dated: May 28, 2010



Scott Blake Harris
General Counsel

U.S. Department of Energy

1000 Independence Ave, SW
Washington, DC 20585

In the Matter of:)
)
Advanced Distributor Products)
_____)

Case Number: 2010-SE-0304

SUBPOENA
FOR INFORMATION AND PRODUCTION OF DOCUMENTS

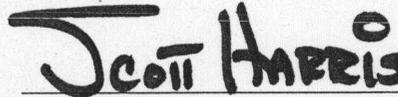
Issued: May 28, 2010

The Department of Energy (DOE) issues this Subpoena for Information and Production of Documents to Advanced Distributor Products (ADP) pursuant to 42 U.S.C. § 6299 of the Energy Policy and Conservation Act and the regulations promulgated thereunder. 10 CFR 430.72.

Failure to provide information and documents violates 42 U.S.C § 6302 and DOE's accompanying regulations. 10 CFR § 430.61. Failure to obey this subpoena may result in penalties imposed by a court of law.

ADP is required by law to maintain records of underlying test data for all certification testing and to organize and index such documentation to ensure that they are readily accessible for review by DOE upon request. Such records include supporting test data on any tested units and must be retained by ADP for two years following the date production of the model has ceased. 10 CFR § 430.62.

ADP's responses to the request for information and documents must be received by DOE no later than 30 days after the date of this subpoena.



Scott Blake Harris
General Counsel

QUESTIONS

- 1) **Model Information.** For each basic model (model N2H348A(G)KB* + H,GE50560 + *8MPV125 and model N2H360A(G)KB* + H,GE50560 + MV16J22**B*), identify:
 - a) the product type (example: residential central air-conditioner or heat pump), product class (example: through-the-wall heat pumps-single package), the model number(s) of indoor and/or out-door units¹;
 - b) the cooling capacity;
 - c) the heating capacity, if applicable;
 - d) the date production began for any units in commerce in the United States for each model;
 - e) the first date placed in commerce in the United States;
 - f) the dates of manufacture; and
 - g) if applicable, the date the product was no longer offered for introduction into commerce in the United States.

- 2) **Units in Distribution.** For ADP component H,GE50560, identify:
 - a) the number of units sold;
 - b) the number of units in stock and being offered for sale;
 - c) the number of units imported into the United States, if any;
 - d) the recipients of each unit listed in response to Question 2a and the number of units of that model that were distributed to each recipient;
 - e) to the extent possible, the number of units ultimately used in basic model N2H348A(G)KB* + H,GE50560 + *8MPV125; and
 - f) to the extent possible, the number of units ultimately used in basic model N2H360A(G)KB* + H,GE50560 + MV16J22**B*.

- 3) **Discontinued Products - Notice** For each basic model (model N2H348A(G)KB* + H,GE50560 + *8MPV125 and model N2H360A(G)KB* + H,GE50560 + MV16J22**B*), state whether ADP notified DOE that the model was discontinued and provide the date and manner by which ADP notified DOE.

- 4) **Alternative Rating Method (ARM)** For all basic models ADP currently sells for which ADP used an alternative rating method referred to in 10 CFR § 430.24(m)(5) in lieu of the uniform method in part 430, subpart B, appendix M, to certify for compliance: identify each and every product by type, class and model number(s); specify when it was done, and by whom (name, address and phone); and provide the date of the ARM approval. For each approved

¹ Use the definitions provided on page 5 and those contained in the regulations (10 CFR § 430.2) to specify the type of product.

ARM, indicate whether ADP has made any adjustments to the ARM since approval.

- 5) **Uniform Testing.** For all basic models ADP currently sells or has sold for which an ARM was not relied on for compliance certification purposes, state whether ADP followed the procedure set out in Appendix M to Subpart B of Part 430 and if ADP deviated from it, state how.

- 6) **Testing.** For each basic model listed in Question 1, state the dates ADP conducted testing pursuant to Appendix M to Subpart B of Part 430 (other than ARM rating) to determine whether the model meets the SEER and HSPF for heat pumps required by 10 CFR § 430.32(b) and (c), the place of testing (i.e., name and address of the test laboratory), the number of units tested for each basic model, and who conducted the testing (name, address and phone).

REQUEST FOR DOCUMENTS

- 1) **Testing.** All records and other documentation pertaining to the laboratory testing for SEER and HSPF (other than ARM rating) for basic model N2H348A(G)KB* + H,GE50560 + *8MPV125 and for basic model N2H360A(G)KB* + H,GE50560 + MV16J22**B*, including any verification test reports.
- 2) **ARM rating.** All records and other documentation representing alternative rating methods, or computer simulation, used to determine SEER and HSPF, including but not limited to computer code, if computer simulation is performed, for basic model N2H348A(G)KB* + H,GE50560 + *8MPV125 and basic model N2H360A(G)KB* + H,GE50560 + MV16J22**B*. If the document itself does not so indicate, specify the date it was performed.
- 3) **Technical documents.** All detailed technical specifications and documents related to basic model N2H348A(G)KB* + H,GE50560 + *8MPV125 and basic model N2H360A(G)KB* + H,GE50560 + MV16J22**B*, certified by ADP as compliant with DOE standards, including the model's:
 - a) service and owner's manuals;
 - b) operating instructions;
 - c) electrical ratings;
 - d) schematics; and
 - e) descriptions and specifications for each component.
- 4) **Other documents.** All documents, not otherwise specifically requested, based on which ADP concluded that basic model N2H348A(G)KB* + H,GE50560 + *8MPV125 and basic model N2H360A(G)KB* + H,GE50560 + MV16J22**B*, meet the energy efficiency standards in 10 CFR § 430.32. This may include ARM verification test data.