



Department of Energy
Washington, DC 20585

April 13, 2010

BY FAX AND CERTIFIED MAIL

James A. Garrett
President
AeroSys, Inc.
929 Eldridge Drive
Hagerstown, MD 21740

Dear Mr. Garrett:

The attached notice advises you of test results stemming from the September 24, 2009 test notice issued by the United States Department of Energy (DOE) pursuant to 10 CFR § 430.70 regarding the performance of the remaining products manufactured by AeroSys, Inc. (AeroSys) that were selected for enforcement testing. The notice also advises you of your legal obligations.

Violations of the applicable energy-efficiency standards may be subject to civil penalties. Separate from this notice, DOE may issue a notice of liability for such penalties as appropriate.

As specified in the attached notice, DOE asks that AeroSys acknowledge receipt of this notice and inform the agency within 15 calendar days of the steps AeroSys will take to comply with the requirements set forth in this letter.

Should you have any questions or require additional time to respond, please contact either Michael Kido -- (202) 586-8145 -- or Ada Mitrani -- (202) 586-5550 - of my staff.

Sincerely,

A handwritten signature in black ink that reads "Scott HARRIS". The signature is stylized, with a large, sweeping initial "S" and the name "Scott" in a cursive script, followed by "HARRIS" in all caps.

Scott Blake Harris
General Counsel

Attachment(s): Notice of Noncompliance Determination



cc: Mr. Michael Hourigan
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Mr. Thomas Echikson
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U.S. Department of Energy

1000 Independence Ave, SW

Washington, DC 20585

In the matter of:

AeroSys, Inc.

Case Number 2010-SE-0302

NOTICE OF NONCOMPLIANCE DETERMINATION

TESTING UNDER DOE REGULATIONS

In accordance with 10 CFR § 430.70, the Department of Energy (DOE) has conducted enforcement-related testing to determine whether seven (7) basic models manufactured by AeroSys, Inc. (AeroSys) comply with the applicable standards provided in 10 CFR § 430.32(c). (The terms "basic model" and "model" are used interchangeably.) The models tested were rated by AeroSys as SEER 10.9.¹ Test results for the THDC-24TG, THHP-24TG, and THDC-30TG models were reported in a separate notice on March 25, 2010. Testing is now complete for models THDC-24SG, THDC-18RG, THDC-18SG, THDC-18TG and has yielded the following results:

<u>Tested Model</u>	<u>Testing Results</u>
THDC-24SG	Fail
THDC-18RG	Indeterminate
THDC-18SG	Indeterminate
THDC-18TG	Pass

FINDINGS

Based on the testing results described above, DOE has determined that the THDC-24SG model does not meet the applicable DOE standards.

Additional testing is required to determine whether the THDC-18RG and THDC-18SG models meet the applicable DOE standards.

¹ DOE has neither tested nor made any determination of compliance with respect to AeroSys' SEER 12 models, which have the same model numbers, or AeroSys' SEER 10.9 R-22 models, which have similar model numbers. However, DOE notes that AeroSys has not properly certified as complying with the applicable energy conservation standard any of its air conditioners, including the SEER 10.9 R-22 models, the SEER 10.9 R-410A models and the SEER 12 R-410A models.

MANDATORY ACTIONS BY AEROSYS

In light of the above findings, with respect to the THDC-24SG model, AeroSys must take the following steps in accordance with 10 CFR § 430.71:

- (1) Immediately cease distribution in commerce of all THDC-24SG models;
- (2) Provide immediate written notification of this noncompliance determination to all persons to whom AeroSys has distributed units of the THDC-24SG models; and
- (3) 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 THDC-24SG models.

OPTIONAL ACTIONS BY AEROSYS

In addition to the mandatory steps listed above that AeroSys must complete, AeroSys may avail itself of other options with respect to the models that DOE has determined to be in noncompliance. Specifically, AeroSys may request additional testing or make immediate changes to its products to bring them into compliance with the applicable standard.

(1) Additional Testing

AeroSys may request that DOE conduct additional testing of each model found to be noncompliant.

All units must be tested in accordance with 10 CFR § 430.70(a)(1)-(5), and AeroSys shall bear the costs of all testing that is conducted.

Until DOE determines that a tested model complies with the applicable standard, that model may not be sold or otherwise distributed by AeroSys.

If, after this testing, DOE determines that a model complies with the applicable standard, DOE shall issue a notice of allowance to permit AeroSys to resume the distribution of the affected models.

(2) Modifications to Current Models

AeroSys may also elect to modify the basic models that have been determined to be noncompliant to bring them into compliance with the applicable standard.

Should AeroSys 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.

AeroSys 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 AeroSys 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, AeroSys provides DOE with a satisfactory statement within that 15-day period detailing the steps that AeroSys 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.

The distribution of any noncompliant models, including during any manufacturer-initiated testing as described above, may result in DOE seeking all appropriate legal remedies available under Federal law, including injunctive relief and civil penalties with respect to each unit distributed in violation of Federal law.

Dated: _____

4/13/10

SCOTT HARRIS

Scott Blake Harris
General Counsel