

**BEFORE THE  
U.S. DEPARTMENT OF ENERGY  
Washington, D.C. 20585**

In the Matter of: )  
)  
**Haier America Trading, L.L.C.** ) Case Number: 2011-SE-1408  
(Freezers) )  
)

Issued: October 18, 2011

**NOTICE OF NONCOMPLIANCE DETERMINATION**

Manufacturers and private labelers are prohibited from distributing covered products that do not comply with applicable federal energy conservation standards. 10 C.F.R. § 429.102; 42 U.S.C. § 6302.

On July 30, 2011, DOE completed testing of one compact chest freezer, Haier America Trading, L.L.C. (“Haier”) model number HNCM070, manufactured in China, in accordance with DOE test procedures (10 C.F.R. Part 430, Subpart B, Appendix A). In September 2011, DOE completed testing of three additional units of HNCM070, in accordance with the same procedures.

DOE’s testing demonstrated that Haier chest freezer model number HNCM070 is not in compliance with federal law. Given the tested units’ measured volumes, their respective maximum permissible rates of energy consumption were 273, 272, 271, and 273 kilowatt hours per year (kWh/yr).<sup>1</sup> Based on their performance during testing, the four units that DOE tested consumed energy at the rates of 363, 341, 352, and 387 kWh/yr, an average of 32 percent over the federal limit.

**FINDINGS**

Based on the facts stated above, DOE has determined that Haier basic model HNCM070 does not comply with the applicable federal energy conservation standards.

**MANDATORY ACTIONS BY HAIER**

In light of the above findings, Haier must take the following steps in accordance with 10 C.F.R. § 429.114(a):

- (1) Immediately cease distribution in commerce in the United States of all units of basic model HNCM070;

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<sup>1</sup> Under 10 C.F.R. § 430.32(a), the maximum energy use, in kWh/yr, of a compact chest freezer may not exceed 152 plus the product of 10.45 and the total adjusted volume of the particular freezer (10.45AV+152.0).

- (2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Haier has distributed units of basic model HNCM070 in the past three years;
- (3) Provide to DOE within 15 calendar days of the date of this Notice a copy of the written notification required by paragraph (2) and a list of the parties Haier notified; and
- (4) Provide to DOE within 30 calendar days of the date of this Notice any and all records, reports, and other documentation pertaining to the acquisition, ordering, storage, shipment, or sale of units of basic model HNCM070 in the United States in the past three years.

The responses required by paragraphs (3) and (4) must be dated, signed, and notarized, and must include a declaration under penalty of perjury that the contents of the responses are true. Specifically, the person signing the response must attest the following: "I declare under penalty of perjury that the statements contained in this response are true, correct, and complete."

If you claim that any of the information sought by this Notice constitutes confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or is protected from disclosure pursuant to 18 U.S.C. § 1905, you must (1) provide one complete and full copy and one copy with the confidential information deleted and (2) submit supporting information together with the materials that are the subject of the confidentiality request. *See* 10 CFR § 429.7. Failure to adhere to these procedures will result in a rejection of your request for confidential treatment.

#### OPTIONAL ACTIONS BY HAIER

In addition to the mandatory steps listed above that Haier must complete, Haier may elect to modify basic model HNCM070 to bring it into compliance with the applicable standard. 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 C.F.R. Part 429. Prior to distribution in commerce in the United States, Haier must provide to DOE test data demonstrating that the modified basic model complies with the applicable standard. All units must be tested in accordance with DOE regulations, and Haier shall bear the costs of all such testing that is conducted.

If, after this testing, DOE determines that the modified basic model complies with the applicable standard, DOE shall issue a notice of allowance to permit Haier to resume the distribution of the modified basic model in the United States. Until DOE determines that the modified basic model complies with the applicable standard, no units of the basic model may be sold or otherwise distributed by Haier in the United States.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should Haier fail to cease immediately the distribution in the United States of all units of basic model HNCM070, this letter serves as notice that DOE will seek a judicial order within 30 calendar days to restrain further distribution. If, however, Haier provides DOE with a satisfactory statement within that 30-day period detailing the steps that Haier will take to ensure that units of the noncompliant basic model will no longer be distributed in commerce in the United States, DOE may elect to defer seeking such an order until a more appropriate time, if needed.

The distribution of any units of a noncompliant basic model, 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 of the basic model distributed in violation of federal law.



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Litigation and Enforcement