

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

In the Matter of: )

**GD Midea Air-Conditioning** )  
**Equipment Co. Ltd.** )  
(room air conditioners) )

Case Number: 2013-SE-1505

Issued: September 5, 2013

**NOTICE OF NONCOMPLIANCE DETERMINATION**

Room air conditioners are covered products subject to federal energy conservation standards as described in 42 U.S.C. §§ 6292(a)(2), 6295(c), and 10 C.F.R. § 430.32(b). 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(a)(6); 42 U.S.C. § 6302(a)(5).

In February 2013, DOE completed testing of four units of Arctic King brand room air conditioner basic model MWJ1-08ERN1-BI8, manufactured by GD Midea Air-Conditioning Equipment Co. Ltd. (“Midea”), in accordance with DOE test procedures (Appendix F to Subpart B of 10 C.F.R. Part 430). The results of DOE’s testing demonstrate that this basic model is not in compliance with federal law. The minimum permissible energy efficiency ratio (EER) for this basic model manufactured prior to June 1, 2014, is 9.7. Based on its performance during testing, this basic model has an EER of 9.3.

**FINDING**

Based on the facts stated above, DOE has determined, after applying the calculations set forth in Appendix A to Subpart C of 10 C.F.R. Part 429, that Midea basic model number MWJ1-08ERN1-BI8 does not comply with the applicable federal energy conservation standard.

**MANDATORY ACTIONS BY MIDEA**

In light of the above findings, Midea 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 number MWJ1-08ERN1-BI8;

(2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Midea has distributed units of basic model number MWJ1-08ERN1-BI8;

(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 Midea notified; and

(4) Provide to DOE within 30 calendar days of the date of this Notice all records, reports, and other documentation pertaining to the acquisition, ordering, storage, shipment, or sale of units of the basic model in the United States in the past three years; and a summary page listing the total number of units Midea distributed in commerce in the U.S.<sup>1</sup> in the past three years.

The response required by paragraph (3) must be dated, signed, and notarized.

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 MIDEA

In addition to the mandatory steps listed above that Midea must complete, Midea may elect to modify a basic model to bring it into compliance with the applicable standard. A 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. In addition to satisfying all requirements of this part, any models within the basic model must be assigned new model numbers and Midea must also maintain, and provide upon request to DOE, records that demonstrate that modifications have been made to all units of the new basic model prior to distribution in commerce. Prior to distribution of the modified basic model in commerce in the United States, Midea 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 Midea shall bear the costs of all such testing.

If, after this testing, DOE determines that the modified basic model complies with the applicable standard, DOE will issue a Notice of Allowance to permit Midea 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, Midea is prohibited from selling or otherwise distributing units in commerce in the United States.

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<sup>1</sup> Please note that “[t]he terms ‘to distribute in commerce’ and ‘distribution in commerce’ mean to sell in commerce, to import, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.” 42 U.S.C. § 6291(16). Thus, the summary sheet must include all units that Midea has imported into the U.S., as well as any other units that otherwise meet the definition in 42 U.S.C. § 6291(16).

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

If Midea fails to cease immediately the distribution in the United States of all units of basic model MWJ1-08ERN1-BI8, this letter serves as notice that DOE will seek a judicial order within 30 calendar days to restrain further distribution. If, however, Midea provides DOE with a satisfactory statement within that 30-day period detailing the steps that Midea 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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Laura L. Barhydt  
Assistant General Counsel  
for Enforcement