

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

In the Matter of:)
)
Sanyo E & E Corporation) Case Number: 2013-SE-1428
(refrigerator))
)

Issued: April 2, 2013

NOTICE OF NONCOMPLIANCE DETERMINATION

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

On March 13, 2013, DOE was informed that a compact refrigerator with manual defrost manufactured and distributed in the United States by Sanyo E & E Corporation (“Sanyo”) as Sanyo model number SBC-500 may not meet the relevant energy conservation standard when tested in accordance with DOE test procedures (10 C.F.R. Part 430, Subpart B, Appendix A1). On March 20, 2013, DOE issued a Test Notice compelling Sanyo to deliver four units of Sanyo refrigerator model number SBC-500 to a designated testing facility pursuant to its enforcement testing authority under 10 C.F.R. § 429.110. On March 25, 2013, Sanyo admitted that Sanyo refrigerator model number SBC-500 does not comply with the applicable energy standard set forth in 10 C.F.R. § 430.32(a).

FINDING

Based on the facts stated above, DOE has determined that Sanyo refrigerator model number SBC-500 does not comply with the applicable federal energy conservation standard.

MANDATORY ACTIONS BY SANYO

In light of the above findings, Sanyo 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 Sanyo refrigerator model SBC-500;
- (2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Sanyo has distributed units of Sanyo refrigerator model number SBC-500 in the last 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 Sanyo 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 Sanyo refrigerator model number in the United States in the past three years, in addition to a summary page listing the total number of units Sanyo has distributed in commerce in the U.S. in the past three years.¹

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 SANYO

In addition to the mandatory steps listed above that Sanyo must complete, Sanyo may elect to modify Sanyo refrigerator model number SBC-500 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, Sanyo 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 Sanyo 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 Sanyo 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 Sanyo in the United States.

¹ 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 Sanyo has imported into the U.S., even if these units have not been sold, as well as any other units that otherwise meet the definition in 42 U.S.C. § 6291(16). The summary sheet may distinguish between sold and unsold units.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should Sanyo fail to cease immediately the distribution in the United States of all units of Sanyo refrigerator model number SBC-500, this letter serves as notice that DOE will seek a judicial order within 30 calendar days to restrain further distribution. If, however, Sanyo provides DOE with a satisfactory statement within that 30-day period detailing the steps that Sanyo 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 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.



Laura L. Barhydt
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for Enforcement