

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

In the Matter of:

Interlink Products International, Inc.
(showerheads)

Case Number: 2016-SW-29007

Issued: January 13, 2017

NOTICE OF NONCOMPLIANCE DETERMINATION

Showerheads are covered products subject to federal water conservation standards set forth in 10 C.F.R. § 430.32(p). *See* 42 U.S.C. § 6292(a)(15). Manufacturers and private labelers are prohibited from distributing covered products that do not comply with any applicable conservation standard. 10 C.F.R. § 429.102(a)(6); 42 U.S.C. § 6302(a)(5). Specifically, showerheads manufactured on or after January 1, 1994, must not exceed the maximum water use of 2.5 gallons/minute. 42 U.S.C. § 6295(j), 10 C.F.R. § 430.32(p).

On July 15, 2016, the U.S. Department of Energy (“DOE”) completed testing four units of showerhead individual model 1141 (“Drencher”), manufactured under the AquaDance brand by Interlink Products International, Inc. (“Interlink”). DOE followed the showerhead test procedure for all four tests. *See* 10 C.F.R. Part 430, Subpart B, Appendix S. The water use of the four units DOE tested at a flowing water pressure of 80 ± 2 pounds per square inch were 3.3, 3.3, 3.7, and 2.9 gallons/minute.

In CCMS #101298, Interlink certified AquaDance brand showerhead individual model 1141 as basic model 1141.

FINDING

Based on the facts stated above, DOE finds, after applying the calculations in 10 C.F.R. Part 429, Subpart C, Appendix A, that showerhead basic model 1141 does not comply with the applicable federal water conservation standard, which requires that showerheads have a maximum water use of 2.5 gallons per minute.

MANDATORY ACTIONS BY INTERLINK

In light of the above finding, Interlink 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 showerhead basic model 1141;
- (2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Interlink has distributed units of showerhead basic model 1141;
- (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 Interlink 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 showerhead basic model 1141 in the United States on or after April 1, 2012, in addition to a summary page listing the total number per year of units Interlink distributed in commerce in the United States on or after April 1, 2012.¹

Interlink must date, sign, and notarize the responses required by paragraphs (3) and (4), including the following statement:

“I declare under penalty of perjury that the foregoing is true, correct, and complete. Executed on [date].”.

If Interlink claims 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, Interlink 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 C.F.R. § 429.7. Failure to adhere to these procedures will result in a rejection of Interlink’s request for confidential treatment.

OPTIONAL ACTIONS BY INTERLINK

In addition to the mandatory steps listed above that Interlink must complete, Interlink may elect to modify showerhead basic model 1141 to bring it into compliance with the applicable standards. 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. Prior to distribution in commerce in the United States, Interlink must provide to DOE test data demonstrating that the modified basic model complies with the applicable standards. All units must be tested in accordance with DOE regulations, and Interlink must bear the costs of all such testing that is conducted.

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 page must include all units that Interlink has imported into the United States, as well as any other units that otherwise meet the definition in 42 U.S.C. § 6291(16).

If, after this testing, DOE determines that the modified basic model complies with the applicable standards, DOE will issue a notice of allowance to permit Interlink to resume the distribution of the modified basic model in the United States. Until DOE determines that the modified model complies with the applicable standard, Interlink is prohibited from selling or otherwise distributing units of showerhead basic model 1141 in commerce in the United States.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

If Interlink fails to cease immediately the distribution in the United States of all units of showerhead basic model 1141, this letter serves as notice that DOE will seek a judicial order within 30 calendar days to restrain further distribution. If, however, Interlink provides DOE with a satisfactory statement within that 30-day period detailing the steps that Interlink will take to ensure that units of the noncompliant 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.

_____/S/_____
Laura L. Barhydt
Assistant General Counsel
for Enforcement