

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

In the Matter of:

**Cooper Power Systems, LLC**  
(distribution transformers)

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Case Number: 2014-SE-47001

Issued: May 12, 2017

**NOTICE OF NONCOMPLIANCE DETERMINATION**

Liquid-immersed distribution transformers are covered equipment subject to federal energy conservation standards as described in 10 C.F.R. § 431.196(b). Manufacturers and private labelers are prohibited from distributing covered equipment that does not comply with the applicable conservation standards. 10 C.F.R. § 429.102(a)(6); 42 U.S.C. § 6302(a)(5).

Cooper Power Systems, LLC (“Cooper”), a wholly-owned subsidiary of Cooper Industries, voluntarily notified the U.S. Department of Energy (“DOE”) that Cooper had distributed in commerce a noncompliant liquid-immersed distribution transformer with the basic model number 1250-3-W-500-13800-95-480-98.91 (“480-98.91”).

**FINDINGS**

As voluntarily reported, Cooper’s basic model 480-98.91 does not comply with the applicable federal energy conservation standards.

**MANDATORY ACTIONS BY COOPER**

Cooper has represented to DOE that Cooper voluntarily ceased distribution in commerce in the United States of distribution transformer basic model 480-98.91. Furthermore, Cooper has provided to DOE information regarding the distribution in commerce in the U.S. of distribution transformer basic model 480-98.91.

Cooper is required take the following additional steps in accordance with 10 C.F.R. § 429.114(a):

- (1) Do not distribute in commerce in the United States any units of the basic model;
- (2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Cooper has distributed units of distribution transformer basic model 480-98.91;

(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 that Cooper notified; and

(4) Provide DOE, within 30 calendar days of this notice any and all records, reports and other documentation pertaining to the acquisition, ordering, storage, shipment, or sale of distribution transformer basic model 480-98.91 in the past five years.<sup>1</sup>

If Cooper 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, Cooper 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 Cooper's request for confidential treatment.

#### OPTIONAL ACTIONS BY COOPER

In addition to the mandatory steps listed above that Cooper must complete, Cooper may elect to modify a basic model to bring it into compliance with the current 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 Cooper 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, Cooper 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 Cooper 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 Cooper 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, Cooper is prohibited from selling or otherwise distributing units in commerce in the United States.

#### CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should Cooper fail to cease immediately the distribution in the United States of all units of models within the basic model, this letter serves as notice that DOE may seek a judicial order within 30 calendar days to restrain further distribution. If, however, Cooper provides DOE with

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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).

a satisfactory statement within that 30-day period detailing the steps that Cooper 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

\_\_\_\_\_/s/\_\_\_\_\_  
Laura L. Barhydt  
Assistant General Counsel  
for Enforcement