

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

In the Matter of:)
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)
Ice Air, LLC) Case Number: 2014-SE-43001
(packaged terminal air conditioners))
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Issued: March 27, 2017

NOTICE OF NONCOMPLIANCE DETERMINATION

Packaged terminal air conditioners (“PTAC”) are covered equipment subject to federal energy conservation standards. 42 U.S.C. §§ 6311(1)(I), 6313(a), and 10 C.F.R. § 431.97. Manufacturers and private labelers are prohibited from distributing covered equipment in the United States that do not comply with applicable federal energy conservation standards. 10 C.F.R. § 429.102(a)(6); 42 U.S.C. § 6313(a).

TESTING

The U.S. Department of Energy (“DOE”) tested four units of PTAC basic model 8RSCT13 manufactured¹ Ice Air, LLC (“Ice Air”). DOE’s testing in accordance with DOE test procedures (10 C.F.R. § 431.96) demonstrates that this basic model is not in compliance with the applicable energy conservation standard. The minimum permissible energy efficiency ratio (“EER”) for this model of PTAC manufactured after October 8, 2012, and before January 1, 2017, is 8.5. 10 C.F.R. § 431.97. The four units that DOE tested performed at an EER of 7.56, 7.91, 7.48, and 7.58, respectively.

FINDINGS

Based on the facts stated above, DOE finds that PTAC basic model 8RSCT13 and any individual models within this basic model (together, the “subject basic model”) do not comply with the applicable energy conservation standard.

MANDATORY ACTIONS BY ICE AIR

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

¹ Please note that “[t]he term ‘manufacture’ means to manufacture, produce, assemble or import.” 42 U.S.C. § 6311(7).

- (1) Immediately cease distribution in commerce² in the United States of all units of the subject basic model;
- (2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Ice Air has distributed units of any model within the subject basic model;
- (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 Ice Air 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 the subject basic model in the United States in the past five years.

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 ICE AIR

In addition to ceasing distribution in commerce in the United States of all units of the subject basic model, Ice Air 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 Ice Air 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, Ice Air 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, with at least one unit tested by an independent, third-party test facility, and Ice Air 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 Ice Air 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, Ice Air is prohibited from selling or otherwise distributing units in commerce in the United States.

² 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. § 6311(7).

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should Ice Air fail to cease immediately the distribution in the United States of all units of models within the subject basic models, this letter serves as notice that DOE may seek a judicial order within 30 calendar days to restrain further distribution. If, however, Ice Air provides DOE with a satisfactory statement within that 30-day period detailing the steps that Ice Air will take to ensure that units of the noncompliant subject basic models 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 subject 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