

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

In the Matter of:

Rheem Manufacturing Co.
(commercial package air conditioners and
heat pumps)

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) Case Number: 2018-SE-43026
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Issued: May 16, 2019

NOTICE OF NONCOMPLIANCE DETERMINATION

Commercial package air conditioners and heat pumps are covered equipment subject to federal energy conservation standards. 10 C.F.R. §§ 431.92, 431.97. Manufacturers and private labelers are prohibited from distributing covered equipment that does not comply with an applicable conservation standard. 10 C.F.R. § 429.102(a)(6). Specifically, commercial package air conditioners with a cooling capacity of ≥ 65 K Btu/h and < 135 K Btu/h manufactured on or after January 23, 2006, and before January 1, 2010, and before January 1, 2018, must have an energy efficiency ratio that meets or exceeds the minimum of 11.0. 10 C.F.R. § 431.97(b).

TESTING

The U.S. Department of Energy (“DOE”) tested four units of commercial package air conditioner basic model RKKL-B090D (the “subject basic model”), manufactured by Rheem Manufacturing Co. (“Rheem”). DOE’s testing in accordance with DOE test procedures (10 C.F.R. § 431.96) yielded EER values of the four units of 10.30, 10.57, 10.42, and 10.33.

FINDINGS

Based on the facts stated above, DOE finds, after applying the calculations in 10 C.F.R. Part 429, Subpart C, Appendix B, that the subject basic model¹ does not comply with the applicable federal energy conservation standard of no less than 11.0 EER.

NOTICE

Distribution in commerce of covered equipment that does not meet the applicable energy conservation standard is a violation subject to civil penalty, regardless of the issuance of this notice. Rheem certified the basic model as discontinued in June 2018. DOE may assess civil

¹ For the purposes of this determination, the “basic model” is all units manufactured by Rheem that have the same primary energy source and essentially identical electrical, physical and functional characteristics that affect energy consumption or energy efficiency. See 10 C.F.R. § 431.92.

penalties for each unit distributed in commerce in the U.S. by Rheem, and may assess a higher civil penalty for units sold after the date of this Notice.

MANDATORY ACTION BY RHEEM

In light of the above findings, Rheem must, within 30 calendar days of the date of this Notice, provide to DOE records sufficient to show the number of units of the basic model that Rheem distributed in commerce in the United States in the past five years. 10 C.F.R. § 429.114(a). This includes all units that remain in Rheem's inventory that were manufactured (including importation) on or after January 1, 2010.

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 C.F.R. § 429.7. Failure to adhere to these procedures will result in a rejection of your request for confidential treatment.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should Rheem continue distribution in the United States of units of 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, Rheem provides DOE with a satisfactory statement within that 30-day period detailing the steps that Rheem 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