

Rheem continues to distribute the basic model, DOE 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, categorized by year and month. 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 April 28, 2015, and all units Rheem imported into 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 C.F.R. § 429.7. Failure to adhere to these procedures will result in a rejection of your request for confidential treatment.

OPTIONAL ACTIONS BY RHEEM

In addition to the mandatory steps listed above that Rheem must complete, Rheem may elect to modify the basic model 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. In addition to satisfying all requirements of part 429, any individual models within the basic model must be assigned new model numbers and Rheem 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 in commerce in the United States, Rheem must provide to DOE test data demonstrating that the modified basic model complies with the applicable standards.² All units must be tested in accordance with DOE regulations, and Rheem 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 standards, DOE shall issue a Notice of Allowance to permit Rheem to resume the distribution of the modified basic model in the United States.

CONSEQUENCES FOR CONTINUING TO DISTRIBUTE THE BASIC MODEL

Should Rheem fail to cease immediately the distribution in the United States of all units of the basic models, 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.

² DOE may require that an independent, third-party testing facility perform this testing.

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