

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

In the Matter of:)
)
Harbor Freight Tools USA, Inc.) Case Number: 2019-SE-64001
(small electric motors))
)

Issued: September 2, 2021

NOTICE OF NONCOMPLIANCE DETERMINATION

Small electric motors are covered equipment subject to federal energy conservation standards. 10 C.F.R. § 431.446. Manufacturers and private labelers are prohibited from distributing covered equipment that do not comply with the applicable federal energy conservation standard. 42 U.S.C. §§ 6302, 6316. Specifically, a 0.5-horsepower, 4-pole, capacitor-start induction-run, small electric motor, manufactured after March 9, 2015,¹ must have an average full load efficiency of not less than 76.2%. 10 C.F.R. § 431.446.

TESTING

The U.S. Department of Energy (“DOE”) tested one unit of Smith+Jones brand basic model D56 1/2S4C-C (“the basic model”), which is privately labeled by Harbor Freight Tools USA, Inc. (“Harbor Freight”). DOE’s testing in accordance with DOE test procedures (10 C.F.R. § 431.444) yielded the following results. When tested at 115V, the efficiency was determined by DOE to be 64.4%, When tested at 230 volts, the efficiency was determined by DOE to be 64.5%.

On September 10, 2019, Harbor Freight provided to DOE test data demonstrating that three tested units did not comply with the applicable federal energy conservation standard. On June 2, 2021, Harbor Freight informed DOE that it imported a total of 28,800 units of the basic model between March 10, 2015 and August 6, 2019. On September 1, 2021, Harbor Freight provided DOE with a written statement, dated August 31, 2021, admitting that it distributed in commerce in the United States the basic model and that the basic model does not comply with the applicable federal energy conservation standard.

¹ In the case of a small electric motor which requires listing or certification by a nationally recognized safety testing laboratory, after March 9, 2017. See 10 C.F.R. §431.446.

FINDINGS

Based on the facts stated above, DOE finds that the basic model does not comply with the applicable energy conservation standard of having an average full load efficiency of no less than 76.2%. *See* 10 C.F.R. § 431.446.

NOTICE

Distribution in commerce of a covered equipment that does not meet the energy conservation standards is a violation subject to civil penalty, regardless of the issuance of this Notice. If Harbor Freight continues to distribute the basic model, DOE may assess a higher civil penalty for units sold after the date of this Notice.

MANDATORY ACTIONS BY HARBOR FREIGHT

In light of the above findings, Harbor Freight must, within 30 days of the date of this Notice, provide to DOE the total number of units of the basic model that Harbor Freight distributed in commerce in the United States between March 9, 2015 and August 31, 2021, categorized by month and year.

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 § 431.407. Failure to adhere to these procedures will result in a rejection of your request for confidential treatment.

CONSEQUENCES FOR CONTINUING TO DISTRIBUTE THE BASIC MODEL

Should Harbor Freight distribute in the United States any 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, Harbor Freight provides DOE with a satisfactory statement within that 30-day period detailing the steps that Harbor Freight 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/_____
Stephen C. Skubel
Acting Assistant General Counsel
for Enforcement