

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

In the Matter of:)

Haier America Corporation)
(dehumidifiers))

Case Number: 2018-SE-36003)

Issued: February 12, 2019

NOTICE OF NONCOMPLIANCE DETERMINATION

Dehumidifiers are subject to federal energy conservation standards set forth in 10 C.F.R. § 430.32(v). Manufacturers and private labelers are prohibited from distributing covered products that do not comply with an applicable conservation standard. 10 C.F.R. § 429.102(a)(6). Specifically, dehumidifiers with a capacity of up to 35.00 pints/day, and manufactured on or after October 1, 2012, and before June 13, 2019, must have an energy factor that meets or exceeds the minimum of 1.35 L/kWh. 10 C.F.R. § 430.32(v)(1).

TESTING

The U.S. Department of Energy (“DOE”) tested, in accordance with the test procedure at 10 C.F.R. Part 430, Subpart B, Appendix X, four units of dehumidifier basic model DM32EK (“the basic model”), manufactured by Haier America Corporation. The individual model numbers of the units were DM32M-TC and DM32M-T. In CCMS #161496¹, Haier America Company, LLC, certified both of these individual models as basic model DM32EK. Counsel for Haier identified Haier America Corporation as the responsible entity. DOE’s testing demonstrates that this basic model² is not in compliance with the applicable energy conservation standard. The capacities of the four units DOE tested were 29.68, 29.28, 29.76, and 29.87 pints/day. The energy factors of the four units DOE tested were 1.09, 1.14, 1.22, and 1.25 L/kWh.

FINDINGS

Based on the facts stated above, DOE finds, after applying the calculations in 10 C.F.R. Part 429, Subpart C, Appendix A, that the basic model does not comply with the applicable federal energy conservation standard of no less than 1.35 L/kWh.

¹ Earlier submissions identify the importer under variations such as Haier America and Haier America Trading, LLC.

² For the purposes of this determination, the “basic model” is all units manufactured by Haier 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. § 430.2.

NOTICE

Distribution in commerce of a product that does not meet an energy conservation standard is a violation subject to civil penalty. If any Haier entity, which includes Haier America Company, LLC and Haier America Corporation (collectively, “Haier”), 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 HAIER

In light of the above findings, Haier 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 Haier 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 Haier’s inventory that were manufactured (including importation) on or after October 1, 2012, and all units Haier 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 HAIER

In addition to the mandatory steps listed above that you must complete, you 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 you 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, you must provide to DOE test data demonstrating that the modified basic model complies with the applicable standards.³ All units must be tested in accordance with DOE regulations, and you 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 you to resume the distribution of the modified basic model in the United States.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should you 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

³ DOE may require that an independent, third-party testing facility perform this testing.

restrain further distribution. If, however, you provide DOE with a satisfactory statement within that 30-day period detailing the steps that you 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