

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

In the Matter of:)
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)
Comitale National, Inc.) Case Number: 2022-SE-43003
(packaged terminal air conditioners and heat)
pumps))
)

Issued: December 20, 2022

NOTICE OF NONCOMPLIANCE DETERMINATION

Commercial packaged air conditioning and heating equipment are covered equipment subject to federal energy conservation standards. 10 C.F.R. §§ 431.2, 431.92, 431.97. Manufacturers and private labelers are prohibited from distributing covered equipment that do not comply with an applicable energy conservation standard. 10 C.F.R. § 429.102(a)(6). Specifically, standard size packaged terminal heat pumps with a capacity of less than 7,000 Btu/h and manufactured on or after October 8, 2012, must have an energy efficiency ratio (“EER”) of at least 11.9 and a Coefficient of Performance (“COP”) of at least 3.3. 10 C.F.R. § 431.97(c).

TESTING

The U.S. Department of Energy (“DOE”) tested four units of CNI brand packaged terminal heat pump model PH123010WA, manufactured by Comitale National, Inc. (“Comitale”). DOE’s testing in accordance with DOE test procedures (10 C.F.R. § 431.96) yielded the following results. The EER of three of the units DOE tested were 4.70, 4.72, and 4.82; and the COP of the three tested units were 1.63, 1.83, and 1.76, respectively. The fourth unit DOE tested had a COP of 1.78, but this unit could not be tested in cooling mode because the compressor would not operate continuously. This Notice of Noncompliance Determination is based on the four test results for COP and the three attainable test results for EER.

FINDINGS

Based on the facts stated above, DOE finds that the basic model¹ that includes model PH123010WA (“the basic model”) is a standard size packaged terminal heat pump with a capacity of less than 7,000 Btu/h. After applying the calculations in 10 C.F.R. Part 429, Subpart C, Appendix B, DOE finds that the basic model does not comply with the applicable federal

¹ A “basic model” of a packaged terminal heat pump means all units manufactured by one manufacturer within a single equipment class, having the same primary energy source (e.g., electric or gas), and which have the same or comparable compressors, same or comparable heat exchanger, and same or comparable air moving systems that have a cooling capacity within 300 Btu/h of one another. See 10 C.F.R. § 431.92.

energy conservation standard of at least 11.9 EER, nor does the basic model comply with the federal energy conservation standard of at least 3.3 COP.

NOTICE

Distribution in commerce of covered equipment that does not meet the applicable energy conservation standards is a violation subject to civil penalty, regardless of the issuance of this Notice. If Comitale 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 COMITALE

In light of the above findings, Comitale 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 Comitale distributed in commerce in the United States in the past five years, categorized by year.

10 C.F.R. § 429.114(a). This includes all units that remain in Comitale's inventory that were manufactured (including importation) on or after October 8, 2012.

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 COMITALE

In addition to the mandatory steps listed above that Comitale must complete, Comitale 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 Comitale 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, Comitale 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 Comitale 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 Comitale to resume the distribution of the modified basic model in the United States.

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

CONSEQUENCES FOR CONTINUING TO DISTRIBUTE THE BASIC MODEL

Should Comitale 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, Comitale provides DOE with a satisfactory statement within that 30-day period detailing the steps that Comitale 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.

David W. Case
Trial Attorney

Certificate of Service

This is to certify that on December 20, 2022, the undersigned served the designated copies of the Notice of Noncompliance Determination issued in DOE Case Number 2022-SE-43003 on the parties listed below in the manner indicated.

Maria Ryan, President
Comitale National, Inc.
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PDF
Email

David W. Case