

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

In the Matter of:)
)
Miele, Inc.) Case Number: 2020-SW-19001
(dishwashers))
)

Issued: June 29, 2023

NOTICE OF NONCOMPLIANCE DETERMINATION

Dishwashers are covered products subject to federal energy conservation standards. 10 C.F.R. §§ 430.2, 430.32(f). Manufacturers are prohibited from distributing covered products that do not comply with an applicable conservation standard. 10 C.F.R. § 429.102(a)(6). Specifically, standard size dishwashers must not exceed estimated annual energy use of 307 kWh/yr or water consumption of 5.0 gallons per cycle. 10 C.F.R. § 430.32(f)(3).

TESTING

The U.S. Department of Energy ("DOE") conducted an assessment test of a dishwasher manufactured by Miele and certified to DOE as belonging to basic model PG 8056 U AE ("the basic model"). DOE's testing in accordance with DOE test procedures (10 C.F.R. Part 430, Subpart B, Appendix C1) yielded the following result. The water consumption of tested the unit was 6.1 gallons per cycle. DOE issued a Test Notice to proceed with enforcement testing pursuant to 10 C.F.R. § 429.110. Miele submitted to DOE a concession, conceding that the basic model is not compliant with the applicable energy conservation standards.

FINDINGS

Based on the facts stated above, DOE finds that basic model PG 8056 U AE¹ ("the noncompliant basic model") do not comply with the applicable federal energy conservation standards of water consumption no greater than 5.0 gallons per cycle.

NOTICE

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

¹ A "basic model" is all units manufactured by one manufacturer 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.

MANDATORY ACTION BY MIELE

DOE understands that Miele has ceased distribution of the noncompliant basic model. Miele has provided to DOE records sufficient to show the number of units of the noncompliant basic model distributed in commerce in the United States from January 2020 through April 2023. 10 C.F.R. § 429.114(a). Specifically, Miele reported to DOE that, during this period, a total of 287 units of the noncompliant basic models were imported into the United States.

OPTIONAL ACTIONS

Miele 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 Miele 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, Miele must provide to DOE data demonstrating that the modified basic model complies with the applicable standards.

If DOE determines that the modified basic model complies with the applicable standards, DOE shall issue a Notice of Allowance to permit Miele to resume the distribution of the modified basic model in the United States.

CONSEQUENCES FOR CONTINUING TO DISTRIBUTE THE BASIC MODEL

Should Miele fail to cease immediately the distribution in the United States of all noncompliant 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, Miele provides DOE with a satisfactory statement within that 30-day period detailing the steps that Miele 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.

Pejumae Guscott
Trial Attorney

Certificate of Service

This is to certify that on June 28, 2023, the undersigned served the designated copies of the Notice of Noncompliance Determination issued in DOE Case Number 2020-SW-19001 on the parties listed below in the manner indicated.

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PDF
Email

Pejumae Guscott
Trial Attorney