

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

In the Matter of:

Avanti Products, LLC
(residential clothes dryers)

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) Case Number: 2013-CE-2105
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NOTICE OF PROPOSED CIVIL PENALTY

Date issued: March 19, 2013

Number of alleged violations: 258

Maximum possible assessment: **\$51,600**

Proposed civil penalty: **\$8,000**

The U.S. Department of Energy ("DOE") Office of the General Counsel, Office of Enforcement, alleges that Avanti Products, LLC ("Avanti" or "Respondent") has violated certain provisions of the Energy Policy and Conservation Act, 42 U.S.C. § 6291 *et seq.* ("the Act"), and 10 C.F.R. § 429.12.

Specifically, DOE alleges:

1. Avanti, formerly a subsidiary of the Mackle Company, Inc. ("Mackle"), has manufactured¹ a variety of residential clothes dryers that it has distributed in commerce in the U.S., including, but not limited to, individual models D110-1 and D110-1IS.
2. Individual models D110-1 and D110-1IS are "covered products" as defined in 10 C.F.R. § 430.2.
3. Avanti did not submit an annual certification report for the basic model(s) that include individual models D110-1 and D110-1IS by October 1, 2012, as required by 10 C.F.R. § 429.12(d).
4. Avanti distributed individual models D110-1 and D110-1IS in commerce in the U.S. for 129 days between October 1, 2012, and February 6, 2013.
5. On February 6, 2013, Avanti certified basic model D110-1IS and basic model D110-1 in CCMS #23735.

¹ "Manufacture" means to manufacture, produce, assemble, or import. 42 U.S.C. § 6291.

6. Although Avanti now claims that individual model D110-1 and individual model D110-IIS are both variations of basic model D110-1 with essentially identical electrical, physical, and functional characteristics, in 2011 and 2013, Avanti certified individual model D110-1 and individual model D110-IIS as two basic models.

The following information is provided in question and answer format to help explain Avanti's legal obligations and options.

What do I do now?

DOE is offering a settlement of \$8,000 if you submit the signed Compromise Agreement and pay the fine within thirty (30) days of the date of an Adopting Order adopting the Compromise Agreement.

If you do not choose to settle the case, DOE may seek the maximum penalty authorized by law. You have other options as described below.

What are my other options?

If you do *not* agree to DOE's settlement offer, then you must select Option 1 or Option 2 below within thirty (30) calendar days of the date of this Notice.

Option 1: You may elect to have DOE issue an order assessing a civil penalty. Failure to pay the assessed penalty within sixty (60) calendar days of the order assessing such penalty will result in referral of the case to a U.S. District Court for an order affirming the assessment of the civil penalty. The District Court has the authority to review the law and the facts *de novo*.

Option 2: You may elect to have DOE refer this matter to an Administrative Law Judge ("ALJ") for an agency hearing on the record. Upon a finding of violation by the ALJ, DOE will issue an order assessing a civil penalty. This order may be appealed to the appropriate U.S. Court of Appeals.

When must I respond?

You must submit the signed Compromise Agreement within thirty (30) calendar days of the date of this Notice to pay the settlement amount of \$8,000. If you do not wish to settle AND you wish to choose Option 1 as described above, you must notify DOE of your selection of Option 1 within thirty (30) calendar days of the date of this Notice. Otherwise, if you do not settle the case, DOE will refer the case to an ALJ as described in Option 2.

How should I submit my response?

To assure timely receipt, DOE strongly encourages you to submit your response by e-mail, fax, or an express delivery service. DOE accepts scanned images of signed documents (such as PDFs). Responses may be sent by any of the following methods:

By email to: James.Silvestro@hq.doe.gov

By fax to: (202) 586-3437

By mail to: James Silvestro
U.S. Department of Energy
Office of the General Counsel (GC-32)
1000 Independence Ave., SW
Washington, DC 20585

What happens if I fail to respond?

If you fail to respond within thirty (30) calendar days of the date of this Notice, or by the time of any extension granted by DOE, DOE will refer the case to an ALJ for a full administrative hearing (Option 2, above).

What should I include in my response?

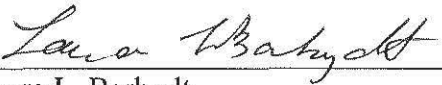
- 1) If you wish to accept DOE's settlement offer, you should submit the signed Compromise Agreement. If you do not wish to accept DOE's settlement offer, you should specify if you wish to elect Option 1; otherwise, DOE will proceed with Option 2, as described above.
- 2) Provide your Taxpayer Identification Number (TIN). The Debt Collection Improvement Act ("DCIA") requires all federal agencies to obtain the TIN in any case that may give rise to a debt to the government.

How did you calculate the maximum possible assessment?

Federal law sets a maximum civil penalty for each day you fail to submit to DOE the required information for a covered product. By regulation, you must submit a certification report for each basic model. Therefore, your maximum penalty is calculated based on each day you distributed each basic model in commerce in the U.S. without having submitted a certification report. The maximum penalty is \$200 per day. 10 C.F.R. § 429.120.

If you have any questions, please contact James Silvestro by either phone at (202) 586-4224 or e-mail at James.Silvestro@hq.doe.gov.

Issued by:



Laura L. Barhydt
Assistant General Counsel
for Enforcement