

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

In the Matter of:)
)
) Case Number: 2011-SE-4301
Goodman Manufacturing (Goodman))
(Commercial HVAC Equipment))
)

NOTICE OF NONCOMPLIANCE DETERMINATION

ASSESSMENT AND TEST NOTICE TEST DATA

Under U.S. Department of Energy (DOE) regulations, commercial package air conditioners manufactured after January 1, 2010, must have an Energy Efficiency Ratio (EER) of at least 11. *See* 10 C.F.R. § 431.97(b). Pursuant to an August 30, 2011 Test Notice (Test Notice) issued to Goodman Manufacturing (Goodman), DOE acquired four units of Goodman commercial package air conditioner model CPC180XXX3BXXXAA (CPC180*) to test for compliance with the applicable energy conservation standard. DOE issued the Test Notice based on the results of an assessment test of one unit of model CPC180* conducted pursuant to 10 C.F.R. § 104, which indicated that this model may not meet the applicable energy conservation standard: test data from the assessment test indicated that the tested unit had an EER of 9.7, which falls short of the required EER by 11.8 percent.

DOE tested three of the four units¹ acquired pursuant to the Test Notice, using the Intertek test facility in Plano, Texas. Based on test data developed during the initial assessment test and subsequent testing of three additional units, this model has an EER of 9.8 and thus fails to meet the applicable (11 EER) standard.

FINDINGS

Based on the facts stated above, DOE has determined that Goodman's commercial package air conditioner model CPC180*, and other systems within the basic model of this system (if any), fail to meet the applicable Federal energy conservation standards.

¹ DOE acquired four units as required under the statistical sampling procedures set forth in DOE regulations. *See* 10 C.F.R. Part 429, Subpart C, Appendix B. Based on the consistent results obtained from testing the first three units, and after consultation with Goodman, DOE determined, in accordance with 10 C.F.R. § 429.110(e)(1)(iv), that testing the fourth unit would be impractical and returned the fourth unit, untested, to Goodman.

MANDATORY ACTIONS BY GOODMAN

In light of the above findings, with respect to the basic model of the commercial package air conditioning system listed above, Goodman must take the following steps in accordance with 10 C.F.R. § 429.114(a):

- (1) Immediately cease distribution in commerce of all models within the basic model that includes commercial package air conditioner model CPC180*;
- (2) Provide immediate written notification to all persons to whom Goodman has distributed any model(s) within the basic model that includes commercial package air conditioner model CPC180* that the system does not meet the applicable standard;
- (3) Provide to DOE within 15 calendar days of the date of this Notice a copy of the written notification required by paragraph (2) and a list of the parties Goodman notified; and
- (4) Provide to DOE within 30 calendar days of the date of this Notice any and all records, reports, and other documentation pertaining to the acquisition, ordering, storage, shipment, or sale of commercial package air conditioner model CPC180*.

OPTIONAL ACTIONS BY GOODMAN

In addition to the mandatory steps listed above that Goodman must complete, Goodman may elect to modify the basic model listed above to bring it into compliance with the applicable standard. The 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. § 429.12 and § 429.16. Prior to distribution in commerce, Goodman must provide to DOE test data demonstrating the modified basic model complies with the applicable standard. All units must be tested in accordance with DOE regulations, and Goodman shall bear the costs of all testing that is conducted.

If, after this testing, DOE determines that the modified basic model complies with the applicable standard, DOE shall issue a notice of allowance to permit Goodman to resume the distribution of the modified basic model. Until DOE determines that the modified basic model complies with the applicable standard, no units of the basic model may be sold or otherwise distributed by Goodman in the United States.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should Goodman fail to cease immediately the distribution of the basic model described above, this letter serves as notice that DOE will seek a judicial order within 30 calendar days to restrain further distribution. If, however, Goodman provides DOE with a satisfactory statement within that 30-day period detailing the steps that Goodman will take to ensure that units of the noncompliant basic model will no longer be distributed in commerce, DOE may elect to defer seeking such an order until a more appropriate time, if needed.

The distribution of any non-compliant basic model, including during any manufacturer initiated testing as described above, 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 models distributed in violation of Federal law.

Dated: 17 October 2011



Timothy G. Lynch
Deputy General Counsel for
Litigation and Enforcement