

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

In the Matter of: )  
)  
**Lennox International Inc.** ) Case Number: 2016-SE-43005  
(commercial package air-conditioners and heat )  
pumps) )

**NOTICE OF PROPOSED CIVIL PENALTY**

Date issued: April 19, 2016

Number of alleged violations: 3,137 (2,894 units distributed, 243 inventory)

Maximum possible assessment: **\$ 627,400**

Proposed civil penalty: **\$ 627,400**

The U.S. Department of Energy (“DOE”) Office of the General Counsel, Office of Enforcement, alleges that Lennox International Inc. (“Lennox”) 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. Parts 429 and 431.

**Legal Requirements**

Commercial packaged air conditioning and heating equipment are covered equipment subject to federal energy efficiency standards. 42 U.S.C. § 6311(1)(C); 42 U.S.C. § 6313(a); 10 C.F.R. § 431.97.

Large, air-cooled commercial packaged air-conditioning equipment manufactured on or after January 1, 2010, with electric resistance heating or no heating, and a rated cooling capacity of 138,000 Btu/h, must have an energy efficiency ratio that is no less than 11.0 EER. 10 C.F.R. § 431.97(b).

Large, air-cooled commercial packaged air-conditioning equipment manufactured on or after January 1, 2010, with heating types other than electric resistance heating, and a rated cooling capacity of 138,000 Btu/h, must have an energy efficiency ratio that is no less than 10.8 EER. 10 C.F.R. § 431.97(b).

Manufacturers and private labelers are prohibited from distributing covered products in the United States that do not comply with applicable federal energy conservation standards. 10 C.F.R. § 429.102(a)(6); 42 U.S.C. § 6316(a).

## **Allegations**

DOE alleges:

1. Lennox has manufactured and distributed in commerce in the United States commercial package air-conditioner basic models LGH150S4M\*4Y,G,J and LGH150S4B\*4Y,G,J<sup>1</sup> (the “subject models”).
2. The subject models are large, air-cooled commercial packaged air-conditioning equipment manufactured on or after January 1, 2010, with rated cooling capacities of 138,000 Btu/h, and various heating types, including electric resistance heating, no heating, and types other than electric resistance heating.
3. Lennox has distributed in commerce in the United States at least 3,137 units of the subject models.
4. As DOE found in a Notice of Noncompliance Determination issued on March 3, 2016, these subject models do not comply with the applicable energy efficiency standards set forth at 10 C.F.R. § 431.97(b).

**The following information is provided in question and answer format to help explain your legal obligations and options.**

*What do I do now?*

DOE is offering to settle this enforcement action by execution of the attached Compromise Agreement within thirty (30) calendar days of the date of this Notice and then fulfill all obligations of the compromise agreement, which includes paying the fine within thirty (30) calendar days of the date of an order adopting the Compromise Agreement.

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.

---

<sup>1</sup> As stated in the Notice of Noncompliance Determination issued on March 3, 2016, the basic models include individual models LCH150S4M\*4Y,G,J; LGH150S4M\*4Y,G,J; LCH150S4B\*4Y,G,J; LGH150S4B\*4Y,G,J; LCH150S4M\*3Y,G,J; LGH150S4M\*3Y,G,J; LCH150S4B\*3Y,G,J; LGH150S4B\*3Y,G,J, any others that fall within the basic models.

*When must I respond?*

You must submit a signed compromise agreement within thirty (30) calendar days of the date of this notice to pay the lowest fine. If you do not wish to settle AND you wish to choose Option 1 as described above, you must notify DOE within thirty (30) calendar days of the date you received this notice of your selection of Option 1. Otherwise, if you do not settle the case, DOE will refer to 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: smitha.vemuri@hq.doe.gov

By fax to: (202) 586-3274

By mail to: Smitha Vemuri  
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 after receiving 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 requires all Federal agencies to obtain the TIN in any case which may give rise to a debt to the government.

*How did DOE calculate the maximum possible assessment?*

Federal law sets a maximum civil penalty for each unit of a covered product or equipment that does not meet an applicable energy or water conservation standard that is distributed in commerce in the U.S. 10 C.F.R. § 429.102(a)(6). In the maximum penalty calculation in this notice, DOE has calculated a maximum penalty of \$200 per unit for 3,137 units distributed in commerce in the U.S.

If you have any questions, please contact Smitha Vemuri by email at [smitha.vemuri@hq.doe.gov](mailto:smitha.vemuri@hq.doe.gov) or by phone at (202) 586-3421.

Issued by:

\_\_\_\_\_/S/\_\_\_\_\_

Laura L. Barhydt  
Assistant General Counsel for  
Enforcement