



Department of Energy

Washington, DC 20585

September 24, 2009

VIA CERTIFIED MAIL AND FASCIMILE

Mr. Jim Garrett
President
AeroSys, Inc.
929 Eldridge Drive
Hagerstown, MD 21740

Dear Mr. Garrett:

This letter is to inform you that the U.S. Department of Energy (DOE), pursuant to its authority under the Energy Policy and Conservation Act of 1975 (EPCA), as amended, and the regulations promulgated thereunder, is issuing a test notice related to products manufactured by AeroSys, Inc. (AeroSys). This matter has been the subject of multiple communications between AeroSys and DOE.

By letter dated August 23, 2007, DOE first notified AeroSys of potential compliance concerns when the agency brought to the company's attention apparent compliance violations involving THDC-30 series through-the-wall (TTW) central air conditioners and heat pumps. AeroSys responded to these concerns by admitting errors in its promotional materials and promising to correct them. The company did not, however, indicate to DOE the manner in which these concerns would be resolved or when it would do so.

In early 2008, DOE received test reports indicating that an AeroSys heat pump model (THHP-F-18T) does not comply with DOE's energy conservation standard for a split system TTW heat pump, which requires a seasonal energy efficiency ratio (SEER) of no less than 10.9. After reviewing these data, DOE sent AeroSys a letter, dated June 27, 2008, seeking the test data on which the company relied when it certified this product. DOE also asked AeroSys to immediately cease the continued distribution of, or re-rate, certain models -- THDC-36 (models R, S, and T) and THDC-30-P -- on the basis that these products were advertised by the company with SEER values that did not meet the applicable standards. AeroSys replied by letter dated July 18, 2008, that the THDC-36 models were commercial products and not subject to the energy conservation standards. AeroSys later clarified that it considers these commercial products to be in the category of computer room air conditioners. AeroSys also asserted that the THDC-30-P and THHP-F-18T fully comply with the DOE standards. The company included some simulation data in support of its response. DOE understands that AeroSys did not cease its distribution of any products.

After reviewing the simulation data, DOE sent a third letter to AeroSys, dated January 22, 2009, in which the agency requested a copy of all test data underlying the claimed SEER ratings



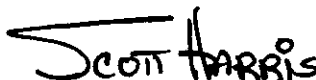
serving as the basis for the company's certification of compliance with the applicable central air conditioner standards. Separately, in accordance with the provisions found in Title 10 of the Code of Federal Regulations (10 CFR) part 430.70(a)(1)(i), DOE offered to meet with AeroSys to verify the company's compliance with the applicable energy conservation standards. In response to this letter, AeroSys sent test data for one non-compliant basic model, which was based on an unapproved alternative rating method (ARM), and a description of that ARM.

At a meeting held with AeroSys on February 24, 2009, the company explained that it did not have any test data supporting its view that its products complied with the standards but promised to provide DOE with (1) the validation data for its test facilities (by March 4, 2009) and (2) complete compliance certification test data for all products it manufactures that are covered by the energy conservation standards (by March 31, 2009). These understandings were confirmed in an email from DOE to AeroSys sent on February 26, 2009. On March 24, 2009, AeroSys submitted data purportedly demonstrating the validity of its facilities. Beginning on April 19, 2009, AeroSys provided certification test data purporting to demonstrate compliance for seven basic models. After examining these data, DOE concluded that the data are insufficient to confirm whether AeroSys products comply with the applicable energy performance standards. Furthermore, DOE reiterated that AeroSys is not eligible to use an ARM to certify its products because the company did not obtain DOE approval to use one as it was required to do under 10 CFR 430.24.

In light of the above, DOE intends to ascertain whether AeroSys-manufactured air conditioners and heat pumps that are covered under EPCA satisfy the applicable energy conservation standards. Under the provisions of 10 CFR 430.70(a) Enforcement, DOE is exercising its authority to require AeroSys to provide sample units for testing and transmits this Test Notice to AeroSys, Inc., for the laboratory testing of each of the designated AeroSys products.

If you have any questions concerning this matter, please contact Dr. Michael Raymond of the EERE staff at (202) 586-9611.

Sincerely,

A handwritten signature in black ink that reads "SCOTT HARRIS". The signature is stylized with a large, sweeping initial "S" and the name "HARRIS" in all caps.

Scott Blake Harris
General Counsel

Enclosure

cc: Michael Hourigan
Ferguson, Schetelich & Ballow, PA

U.S. Department of Energy

1000 Independence Ave, SW
Washington, DC 20585

In re:)
AeroSys, Inc.)
_____)

TEST NOTICE

To: AeroSys, Inc.
929 Eldridge Drive
Hagerstown, MD 21740

Method of Selecting the Test Sample (10 CFR 430.70(a)(4): From a batch of production units of the following basic models, a DOE inspector will randomly select a batch sample of 20 units for each of the following basic models:

THDC-18-R (AeroSys)/FK4DNF002 (Carrier)
THDC-18-S (AeroSys)/FK4DNF002 (Carrier)
THDC-18-T (AeroSys)/FK4DNF002 (Carrier)
THDC-24-S (AeroSys)/FK4DNF003 (Carrier)
THDC-24-T (AeroSys)/FK4DNF003 (Carrier)
THDC-24-TG (AeroSys)/FV4DNF003 (Carrier)
THDC-30-T (AeroSys)/FK4DNF003 (Carrier)
THHP-24-T (Aerosys)/FK4DNF003 (Carrier)

If any of the basic models in this list has been discontinued and is not available for testing, substitute the corresponding R-410A basic model. This substitute list includes the THDC-18-RG (AeroSys)/FV4DNF002 (Carrier), THDC-18-SG (AeroSys)/FV4DNF002 (Carrier), THDC-18-TG (AeroSys)/FV4DNF002 (Carrier), THDC-24-SG (AeroSys)/FV4DNF003 (Carrier), THDC-30-TG (AeroSys)/FV4DNF003 (Carrier) and the THHP-24-TG (Aerosys)/FV4DNF003 (Carrier).

AeroSys shall keep on hand all units in each of the batch samples until such time as the basic model is determined to be in compliance or non-compliance. For each basic model, the DOE inspector shall randomly select from the batch sample four individual test units comprising the initial test sample. Depending on the results of the initial testing, a second sample may be selected according to the provisions of the sampling procedures in 10 CFR Part 430, Subpart F, Appendix B.

AeroSys shall ship the test sample units at its expense to the testing laboratory designated in this test notice. Prior to and during testing, a test unit selected in accordance with 10 CFR

430.70(a)(4) shall not be prepared, modified, or adjusted in any manner unless such preparation, modification, or adjustment is specifically allowed by the DOE test procedure in 10 CFR Part 430, Subpart B, Appendix M.

According to 10 CFR 430.70(a)(3), the determination that a manufacturer's basic model complies with the applicable energy performance standard shall be based on the testing conducted in accordance with the statistical sampling procedures set forth in DOE's regulations. See 10 CFR Part 430, Subpart B, Appendix M (test procedures), and Subpart F, Appendix B (statistical sampling procedures).

If units are found to be in noncompliance, testing can continue at the manufacturer's option and expense in accordance with 10 CFR 430.70(a)(6); however, distribution of the basic model being tested under (a)(6) will cease.

Failure to comply with this Test Notice may be subject to civil penalties of \$110 per day for each violation. (10 CFR 430.61) DOE may also avail itself of all other legal avenues available to it, including seeking injunctive relief as authorized under 42 U.S.C. § 6304.

DATE OF DOE INSPECTION AND SELECTION OF UNITS FOR TESTING: OCTOBER 6, 2009

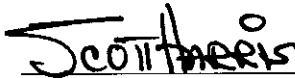
DATE BY WHICH ALL PRODUCTS SHALL BE SHIPPED TO THE DOE TEST FACILITY: WITHIN FIVE (5) WORKING DAYS AFTER INDIVIDUAL UNITS HAVE BEEN SELECTED BY DOE: OCTOBER 13, 2009

DATE BY WHICH TESTING SHALL BE INITIATED: OCTOBER 20, 2009

DATE BY WHICH TESTING IS SCHEDULED TO BE COMPLETED: DECEMBER 31, 2009

FACILITY AT WHICH TESTING SHALL BE CONDUCTED: Intertek Testing Services, 1717 Arlingate Lane, Columbus, OH 43228

Dated: 9/24/09



Scott Blake Harris
General Counsel