

In the Matter of:

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- (a) “Act” means the Energy Policy and Conservation Act of 1975, as amended, 42 U.S.C. § 6291, *et seq.*
- (b) “Affected Units” means individual freezers affected by the parts defect described in Haier’s Service Bulletin SB-RF-0022.
- (c) “Affected Models” means freezer models potentially affected by the parts defect described in Haier’s Service Bulletin SB-RF-0022.
- (d) “Affected Customers” means consumers who purchased Affected Models.
- (e) “DOE” means the U.S. Department of Energy.
- (f) “DOE Rules” means DOE’s energy conservation regulations found in Title 10, Part 430, of the Code of Federal Regulations.
- (g) “Inquiry” means the inquiry commenced by the DOE’s September 2009 letters regarding whether Haier violated the Act by distributing units of freezer model HUF138EA.
- (h) “Parties” means the DOE and Haier.

II. RECITALS

WHEREAS, the DOE, pursuant to 42 U.S.C. §§ 6291, *et seq.*, is responsible for the promulgation and enforcement of the energy conservation requirements set forth in the DOE Rules; and

WHEREAS, the DOE has promulgated energy conservation standards for freezers at 10 C.F.R. § 430.32; and

WHEREAS, the DOE, pursuant to 42 U.S.C. §§ 6302-03 and 10 C.F.R. § 430.61, is authorized to assess civil monetary penalties for actions prohibited by the Act, including the distribution in commerce of a “covered product which is not in compliance with an applicable energy efficiency standard;” and

WHEREAS, 42 U.S.C. § 6294a established within the DOE and the Environmental Protection Agency the ENERGY STAR program, one purpose of which is to create uniform, national labeling criteria beyond the minimum energy conservation requirements set in the DOE Rules to assist the American public in choosing the most energy efficient products and practices, thereby saving money and protecting the environment; and

WHEREAS, the testing and labeling standards that DOE promulgated and is responsible for enforcing “supersede[] any state regulation” relating to the testing of energy consumption or the disclosure of information with respect to energy use or efficiency (42 U.S.C. § 6297(a)); and

WHEREAS, the DOE, on September 3, 2009 initiated an Inquiry into the energy consumption of Haier’s freezer model HUF138EA; and

WHEREAS, Haier determined that certain units of freezer model HUF138EA exhibited increased energy consumption as a result of a malformed part; and

WHEREAS, Haier further determined that certain units of freezer models HUF138EA, HUF138PB, HUF168EA and HUF168PB sold between December 2008 and August 2009 may not be in compliance with the applicable energy efficiency standard and may not meet the applicable ENERGY STAR energy efficiency criteria due to a parts defect; and

WHEREAS, Haier stopped distribution of the Affected Models based on its findings and began repairing Affected Units in its warehouses; and

WHEREAS, Haier disclosed to DOE the parts defects on freezer model HUF138EA and voluntarily disclosed to DOE the parts defects on freezer models HUF138PB, HUF168EA and HUF168PB; and

WHEREAS, Haier took immediate corrective action to repair all Affected Units within its custody and immediately issued a service bulletin instructing its service centers on how to correct the parts defect; and

WHEREAS, DOE, as the agency charged with developing and administering a balanced and coordinated national energy policy, concludes that, in light of the circumstances, this Consent Decree properly balances the policies recognized in the Energy Policy and Conservation Act and is the appropriate way to resolve this matter;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements set forth below, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree as follows:

III. TERMS OF AGREEMENT

1. Obligations of Haier.

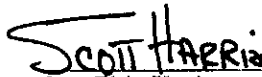
- a. Haier will make reasonable efforts to obtain contact information from retailers or other parties who may have contact information for Affected Customers;
- b. Haier will individually notify Affected Customers of Haier's offer to repair the Affected Unit;
- c. Haier will post a notice on its website about the parts defect and provide instructions for Affected Customers regarding how to obtain repairs;
- d. Haier will repair defective units at no cost to consumers at the freezer's location (generally the consumer's home) in accordance with Haier's Service Bulletin SB-RF-0022;
- e. Haier will extend the warranty on Affected Models by one year;
- f. Haier will make a voluntary contribution to the United States Treasury in the amount of One Hundred Fifty Thousand Dollars (\$150,000) within thirty (30) calendar days of the effective date. The payments must be made by wire transfer in accordance with the instructions provided in Addendum A. Haier will also send electronic notification on the date said payments are made to Laura.Barhydt@hq.doe.gov.
- g. Haier will complete the obligations set forth in paragraphs 1(a) - (e) within 6 months. Haier will submit a report on July 9, 2010, summarizing Haier's efforts to fulfill its obligations under this Consent Decree. The report will include the number of Affected Customers notified pursuant to paragraph 1(b) and the number of Affected Units repaired pursuant to paragraph 1(d). The report shall be submitted to the General Counsel, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

2. **Obligations of the DOE.**

- a. In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the DOE agrees to terminate its Inquiry.
- b. The DOE will not use the facts developed in the Inquiry (including the defects voluntarily disclosed by Haier), through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal; nor will the DOE take any action on its own motion against Haier concerning the matters that were the subject of the Inquiry (including the defects voluntarily disclosed by Haier).

3. **Jurisdiction and Governing Law.** This Consent Decree is entered pursuant to the DOE's authority to interpret and enforce its rules for energy efficiency and to enter into its own agreements interpreting and applying those rules and the requirements of the ENERGY STAR program. Haier and DOE agree that the DOE has jurisdiction over it and exclusive jurisdiction over the matters contained in this Consent Decree and has the authority to enter into this Consent Decree. This Consent Decree shall be governed by and construed and enforced in accordance with Federal law, including 42 U.S.C. § 6297(a).
4. **Effective Date.** The Parties agree that this Consent Decree shall become effective on January 7, 2010.
5. **Waivers.** Haier waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree. If either Party (or the United States on behalf of the DOE) brings a judicial action to enforce the terms of this Consent Decree, neither Haier nor the DOE shall contest the validity of the Consent Decree, and Haier shall waive any statutory right to a trial *de novo*. Haier hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504, relating to the matters addressed in this Consent Decree.
6. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute either adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the DOE's Rules. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, Haier does not admit or deny noncompliance, violation or liability for violating the Act or the DOE's Rules.
7. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.
8. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

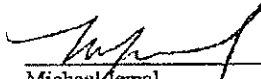
9. Counterparts. This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.



Scott Blake Harris
General Counsel
U.S. Department of Energy

1/7/10

Date



Michael Jemal
Vice Chairman
Haier America Trading, L.L.C.

1/5/10

Date