

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

In the Matter of:

Haier America Trading, LLC
(residential clothes dryers)

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) Case Number: 2011-CE-2104
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NOTICE OF PROPOSED CIVIL PENALTY

Date issued: June 1, 2012

Number of alleged violations: **2,544** (7 basic models; 2,544 days)

Maximum possible assessment: **\$508,440**

Proposed civil penalty: **\$50,844**

The U.S. Department of Energy ("DOE") Office of the General Counsel, Office of Enforcement, alleges that Haier America Trading, LLC ("Haier") 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. 430.62.¹

Specifically, DOE alleges:

1. Haier has manufactured a variety of residential clothes dryers that it has distributed in commerce in the U.S., including, but not limited to, the following basic models:

HDE5300AW;
GDE950AW;
GDE750AW;
GDG750AW;
RDE350AW;
RDG350AW; and
HLP140E.

¹ At the time Haier allegedly violated DOE regulations, the general provisions governing certification reports were located at 10 C.F.R. § 430.62. Certification requirements were moved to 10 C.F.R. Part 429, Subpart B by rule. *See* 76 Fed. Reg. 12,422 (Mar. 7, 2011). General requirements governing certification reports are now located at 10 C.F.R. § 429.12.

2. The basic models listed in paragraph 1, above, are “covered product[s]” as defined in 10 C.F.R. § 430.2.
3. Basic model GDG750AW:
 - a. Haier began distributing basic model GDG750AW in commerce in the U.S. on or before January 9, 2010.
 - b. As Haier acknowledged via email on April 18, 2011, Haier distributed basic model GDG750AW in commerce in the U.S. until December 28, 2010.
 - c. Haier did not submit a certification report for basic model GDG750AW, as required by 10 C.F.R. § 430.62(a),² either on or prior to December 28, 2010.
 - d. At no point, either on or after December 28, 2010, did Haier report to DOE, as required by 10 C.F.R. § 430.62(c), that production of basic model GDG750AW had ceased and that this basic model was no longer being distributed.
4. Basic models HDE5300AW, GDE950AW, GDE750AW, RDE350AW, RDG350AW, and HLP140E:
 - a. Haier distributed each of these basic models in commerce in the U.S. for at least 365 days, beginning on or before March 18, 2010, and ending on or after March 17, 2011.
 - b. Haier did not submit a certification report for any of these basic models, as required by 10 C.F.R. § 430.62(a), prior to March 18, 2011.

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

What do I do now?

DOE is offering a settlement of \$25,440 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

² In its March 18, 1998 Final Rule, DOE provided that clothes dryers were required to be certified on or before March 18, 1999. See 63 Fed. Reg. 13308, 13320 (Mar. 18, 1998).

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 \$25,440. 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: abigail.chingos@hq.doe.gov

By fax to: (202) 586-3274

By mail to: Abigail Burger Chingos
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 may 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; *see also* 74 Fed. Reg. 66,029, 66,032 (Dec. 14, 2009) (increasing maximum penalty to \$200 per day effective Jan. 13, 2010).

Issued by:



Laura L. Barhydt
Assistant General Counsel
for Enforcement