

**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))

Issued: March 3, 2016

NOTICE OF NONCOMPLIANCE DETERMINATION

Large commercial package 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. Manufacturers and private labelers are prohibited from distributing covered equipment 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).

TESTING

On January 15, 2016, the U.S. Department of Energy (“DOE”) received a letter and related test reports from Lennox International Inc. (“Lennox”), informing DOE that a June 2015 AHRI test of commercial package air conditioner model LCH150S4MN4Y demonstrated an Energy Efficiency Ratio (“EER”) performance of 10.28. AHRI conducted a second sample test of model LCH150S4M*4Y, G, J in October 2015, which demonstrated an EER performance of 10.42.

Lennox informed DOE that it then conducted various private tests of the relevant model in the same test facility, and that these tests were conducted at both “nominal and favorable test conditions within the allowable tolerance.” Based on the test reports provided to DOE from Lennox, the private tests occurred on October 23, 2015, and October 24, 2015, with tests results ranging from 10.55 EER to 10.69 EER.

In its letter to DOE, Lennox stated that the above listed test results do not meet the federal minimum efficiency standard of 11.0 EER.

Lennox stated that it ceased production of models LCH150S4B*4Y, G, J; LCH150S4M*4Y, G, J; LGH150S4B*4Y, G, J; and LGH150S4M*4Y, G, J in December 2015. Lennox also stated that it made obsolete and rerated model LCH150S4MN4Y, including all models within the basic model, to an EER of 10.40 Btu/watt-hour with AHRI in January 2016.¹

¹Although Lennox stated that all models within the basic model were re-rated at 10.4 EER with AHRI, AHRI directory paperwork (submitted by Lennox to DOE) and subsequent certifications of compliance to DOE show some individual models were rerated at 10.4 and some were rerated at 10.2.

CERTIFICATION

On January 7, 2016, Lennox submitted certification report # 81206 to DOE through AHRI, indicating the EER and product class designations for the following Lennox Industries Inc. brand basic and individual model numbers:

Basic Model Number	Individual Model Number Covered by Basic Model	Energy Efficiency Ratio (EER, Btu/Watt-hour)	Product Class
LGH150S4M*4Y,G,J	LCH150S4M*4Y,G,J	10.4	4
LGH150S4M*4Y,G,J	LGH150S4M*4Y,G,J	10.2	5
LGH150S4B*4Y,G,J	LCH150S4B*4Y,G,J	10.4	4
LGH150S4B*4Y,G,J	LGH150S4B*4Y,G,J	10.2	5

Basic models LGH150S4M*4Y,G,J and LGH150S4B*4Y,G,J (herein after “basic models”) are large, air-cooled commercial packaged air-conditioning equipment with heating types other than electric resistance heating, or with electric resistance heating or no heating. Product class “4” above indicates that the heating type is electric resistance heating or no heating. Product class “5” above indicates that the heating type is heating other than electric resistance.

Given the basic models’ rated cooling capacity of 138,000 Btu/h, the permissible energy efficiency level for the product class 4 models is 11.0 EER. Given the basic models’ rated cooling capacity of 138,000 Btu/h, the permissible energy efficiency level for the product class 5 models is 10.8 EER.

Based on the testing results and certification ratings provided above, the basic models are not in compliance with the applicable energy efficiency standards.

FINDINGS

Based on the facts stated above, DOE has determined that the basic models, including each individual model within the basic models,² do not comply with the applicable energy efficiency standards.

MANDATORY ACTIONS BY LENNOX

In light of the above findings, Lennox must take the following steps in accordance with 10 C.F.R. § 429.114(a):

- (1) Immediately cease distribution in commerce in the United States of all units of the basic models;
- (2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Lennox (or any affiliated or parent company) has distributed units of any models within the basic models since January 1, 2010;
- (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 Lennox 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 units of the basic models in the United States within the last five years.³

If you claim that any of the information sought by this Notice constitutes confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or is protected from disclosure pursuant to 18 U.S.C. § 1905, you must (1) provide one complete and full copy and one copy with the confidential information deleted and (2) submit supporting information together with the materials that are the subject of the confidentiality request. *See* 10 C.F.R. § 429.7. Failure to adhere to these procedures will result in a rejection of your request for confidential treatment.

² DOE notes that the findings of noncompliance are not restricted to only those individual models listed in CCMS # 81206 (i.e., LCH150S4M*4Y,G,J; LGH150S4M*4Y,G,J; LCH150S4B*4Y,G,J; LGH150S4B*4Y,G,J). For example, CCMS #s 66943 and 66944 submitted by Lennox indicate that basic model LGH150S4M*4Y,G,J also contains individual models LCH150S4M*3Y,G,J and LGH150S4M*3Y,G,J. Further, CCMS #s 66943 and 66944 indicate that basic model LGH150S4B*4Y,G,J also contains individual models LCH150S4B*3Y,G,J and LGH150S4B*3Y,G,J. Thus, as stated in the Findings section of this Notice of Noncompliance Determination, these individual models and any others that fall within the basic models are determined to be noncompliant.

³ Please note that “[t]he terms ‘to distribute in commerce’ and ‘distribution in commerce’ mean to sell in commerce, to import, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.” 42 U.S.C. § 6291(16). Accordingly, units manufactured and held in inventory must be reported.

OPTIONAL ACTIONS BY LENNOX

In addition to the mandatory steps listed above that Lennox must complete, Lennox may elect to modify a basic model 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. Part 429. Prior to distribution in commerce in the United States, Lennox must provide to DOE test data demonstrating that the modified basic model complies with the applicable standard.⁴ All units must be tested in accordance with DOE regulations, and Lennox shall bear the costs of all such 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 Lennox to resume the distribution of the modified basic model in the United States. Until DOE determines that the modified basic model complies with the applicable standard, Lennox is prohibited from selling or otherwise distributing units in commerce in the United States.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

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

The distribution of any units of a noncompliant basic model 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 model distributed in violation of federal law.

_____/S/_____
Laura L. Barhydt
Assistant General Counsel
for Enforcement

⁴ DOE may require that this testing be performed at an independent, third-party testing facility.