

- (1) Immediately cease distribution in commerce in the United States of all units of the Morris Probe-Start Basic Models manufactured on or after January 1, 2009;
- (2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Morris has distributed units of any of the Morris Probe-Start Basic Models; and
- (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 Morris notified.

The response required by paragraph (3) must be dated, signed, and notarized.

Morris has provided to DOE some information regarding the distribution in commerce in the United States of the Morris Probe-Start Basic Models and currently is not required to provide any additional records, reports and other documentation pertaining to the acquisition, ordering, storage, shipment, or sale of the Morris Probe-Start Basic Models. In the future, however, DOE may require additional information related to the acquisition, ordering, and sale of the Morris Probe-Start Basic Models.

OPTIONAL ACTIONS BY MORRIS

In addition to the mandatory steps listed above that Morris must complete, Morris may elect to modify any of the Morris Probe-Start Basic Models to make them comply with the applicable standard. A modified basic model shall then 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. In addition to satisfying all requirements of this part, any models within the basic model must be assigned new model numbers. Morris must also maintain, and provide upon request to DOE, records that demonstrate that modifications have been made to all units of the new basic model prior to distribution in commerce. Prior to distribution in commerce in the United States, Morris must also provide to DOE test data demonstrating that the modified basic model complies with the applicable standard. All units must be tested in accordance with DOE regulations, and Morris must bear the costs of all such testing.

If, after this testing, DOE determines that the modified basic model complies with the applicable standard, DOE will issue a notice of allowance to permit Morris to resume the distribution in commerce of the modified basic model in the United States. Until DOE determines that each modified basic model complies with the applicable standard, Morris is prohibited from selling or otherwise distributing units of each of the Morris Probe-Start Basic Models in commerce in the United States.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

If Morris fails to cease immediately the distribution in commerce in the United States of all units of the Morris Probe-Start Basic Models, this letter serves as notice that DOE may seek a judicial order within 30 calendar days to restrain further distribution and civil penalties as authorized under 10 C.F.R. § 429.114(c).

The distribution in commerce of any units of a noncompliant basic model, including during any manufacturer-initiated testing as described above, may result in DOE seeking all appropriate legal remedies available under federal law, including injunctive relief and civil penalties for each unit of the basic model distributed in violation of federal law.

If you have any questions, you may contact Christina Studt by email at christina.studt@hq.doe.gov or phone at (202) 586-0389.

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Laura L. Barhydt
Assistant General Counsel for
Enforcement