

MANDATORY ACTIONS BY SEAGA

Seaga has represented to DOE that it has ceased distribution of the basic model in commerce in the United States.

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

- (1) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Seaga has distributed units of the basic model;
- (2) 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 Seaga notified; and
- (3) Provide to DOE within 30 calendar days of the date of this Notice all records, reports, and other documentation pertaining to the acquisition, ordering, storage, shipment, or sale of units of the basic model in the United States on or after August 31, 2012, in addition to a summary page listing the total number of units Seaga distributed in commerce in the U.S. on or after August 31, 2012.

The responses required by paragraphs (3) and (4) must be dated and signed and must include a declaration that the contents of the responses are true. 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.

To ensure timely receipt, DOE strongly encourages you to submit your responses by e-mail, fax, or an express delivery service. DOE accepts scanned images of documents (such as PDFs).

Responses may be sent by any of the following methods:

By email to: william.kent@hq.doe.gov
By fax to: (202) 586-5677
By private carrier to: William Kent
 Attorney-Advisor (GC-32)
 U.S. Department of Energy
 1000 Independence Ave., SW
 Washington, DC 20585

OPTIONAL ACTIONS

In addition to the mandatory steps listed above that Seaga must complete, Seaga may elect to modify the basic model to bring it into compliance with the applicable standard. A 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. In addition to satisfying all requirements of this part, any models within the basic model must be assigned new model numbers and Seaga 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, Seaga must 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 Seaga 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 Seaga 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, no units may be sold or otherwise distributed by Seaga in the United States.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

If Seaga distributes the basic model in the United States, this letter serves as notice that DOE will seek a judicial order within 30 calendar days to restrain further distribution. If, however, Seaga provides DOE with a satisfactory statement within that 30-day period detailing the steps that Seaga 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, 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 with respect to each unit of the basic model distributed in violation of federal law.

/S/

Laura L. Barhydt
Assistant General Counsel
for Enforcement