

FINDINGS

Based on Summit's certification, made through its third-party representative as described above, DOE has determined that the 4SHP13LE136P + 15001+CA042A964+TDR basic model does not meet the applicable DOE standard.

MANDATORY ACTIONS BY SUMMIT

In light of the above finding, with respect to the 4SHP13LE136P + 15001+CA042A964+TDR basic model, Summit must take the following steps:

- (1) Immediately cease distribution in commerce of the 4SHP13LE136P + 15001+CA042A964+TDR basic model;
- (2) Provide immediate written notification to all persons to whom Summit has distributed the basic model 4SHP13LE136P + 15001+CA042A964+TDR that the 4SHP13LE136P + 15001+CA042A964+TDR combination does not meet the applicable standard; and
- (3) Provide written notification to all persons to whom Summit has distributed components of basic model 4SHP13LE136P + 15001+CA042A964+TDR that the combination does not meet the applicable standard;¹ and
- (4) Provide within 30 calendar days of the date of this letter any and all records, reports, and other documentation pertaining to the acquisition, ordering, storage, shipment, or sale of the 4SHP13LE136P + 15001+CA042A964+TDR basic model, or any component thereof.

OPTIONAL ACTIONS BY SUMMIT

In addition to the mandatory steps listed above that Summit must complete, Summit may make immediate changes to its products to bring them into compliance with the applicable standard.

Should Summit opt to do so, 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 CFR Part 430. If Summit chooses this option, Summit shall also maintain records that demonstrate that the modifications have been made to all units of the new basic model prior to distribution in commerce.

Records addressing these new basic models shall be maintained for a period of time that is consistent with DOE's regulations for product certification -- i.e., for a period of two years from the date that production has ceased. See 10 CFR § 430.62(d).

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

¹ Summit should contact DOE to determine the best means to fulfill this notification requirement.

Should Summit fail to immediately cease the distribution of the above models, this letter serves as notice that DOE will seek a judicial order within 15 calendar days of the date of this notice to restrain further distribution of these models. If, however, Summit provides DOE with a satisfactory statement within that 15-day period detailing the steps that Summit will take to ensure that all noncompliant models will no longer be distributed in commerce, DOE may elect to defer seeking such an order until a more appropriate time, if needed.

Should Summit fail to provide the required notifications or documentation identified above, DOE may seek civil penalties.

Dated: May 28, 2010

A handwritten signature in black ink that reads "Scott Harris". The signature is written in a cursive, slightly stylized font. The "S" is large and loops around the "c". The "H" is tall and has a small circle above it. The "A" and "R" are connected, and the "I" is a simple vertical stroke. The "S" and "H" are the most prominent letters.

Scott Blake Harris
General Counsel

U.S. Department of Energy

1000 Independence Ave, SW

Washington, DC 20585

In the Matter of:)

Summit Manufacturing, Inc.)

Case Number: 2010-SE-0303

SUBPOENA
FOR INFORMATION AND PRODUCTION OF DOCUMENTS

Issued: May 28, 2010

The Department of Energy (DOE) issues this Subpoena for Information and Production of Documents to Summit Manufacturing, Inc. (Summit) pursuant to 42 U.S.C. § 6299 of the Energy Policy and Conservation Act and the regulations promulgated thereunder. 10 CFR § 430.72.

Failure to provide information and documents violates 42 U.S.C § 6302 and DOE's accompanying regulations. 10 CFR § 430.61. Failure to obey this subpoena may result in penalties imposed by a court of law.

Summit is required by law to maintain records of underlying test data for all certification testing and to organize and index such documentation to ensure that they are readily accessible for review by DOE upon request. Such records include supporting test data on any tested units and must be retained by Summit for two years following the date production of the model has ceased. 10 CFR § 430.62.

Summit's responses to the request for information and documents must be received by DOE no later than 30 days after the date of this subpoena.



Scott Blake Harris
General Counsel

QUESTIONS

- 1) **Model Information.** For Summit basic model 4SHP13LE136P + 15001+CA042A964+TDR, identify:
 - a) the product type (example: residential central air-conditioner and heat pump), product class (example: through-the-wall heat pumps-single package), the model number(s) of indoor and/or out-door units¹;
 - b) the cooling capacity;
 - c) the heating capacity;
 - d) the date production began for any units in commerce in the United States for each model;
 - e) the first date placed in commerce in the United States;
 - f) the dates of manufacture; and
 - g) if applicable, the date the product was no longer offered for introduction into commerce in the United States.

- 2) **Units in Distribution.** For Summit component CA042A964, identify:
 - a) the number of units sold;
 - b) the number of units in stock and being offered for sale;
 - c) the number of units imported into the United States, if any;
 - d) the recipients of each unit listed in response to Question 2a and the number of units of that model that were distributed to each recipient; and
 - e) to the extent possible, the number of units ultimately used in basic model 4SHP13LE136P + 15001+CA042A964+TDR.

- 3) **Discontinued Products - Notice.** For basic model 4SHP13LE136P + 15001+CA042A964+TDR, state whether Summit notified DOE the model was discontinued and provide the date and manner by which Summit notified DOE.

- 4) **Alternative Rating Method (ARM)** For all basic models Summit currently sells for which Summit used an alternative rating method referred to in 10 CFR § 430.24(m)(5) in lieu of the uniform method in part 430, subpart B, appendix M, to certify for compliance: identify each and every product by type, class and model number(s); specify when it was done, and by whom (name, address and phone); and provide the date of the ARM approval. For each approved ARM, indicate whether Summit has made any adjustment to the ARM since approval.

- 5) **Uniform Testing.** For all basic models Summit currently sells or has sold for which an ARM was not relied on for compliance certification purposes, state

¹ Use the definitions provided on page 5 and those contained in the regulations (10 CFR § 430.2) to specify the type of product.

whether Summit followed the procedure set out in Appendix M to Subpart B of Part 430 and if Summit deviated from it, state how.

- 6) **Testing.** For each basic model listed in Response to Question 1, state the dates Summit conducted testing pursuant to Appendix M to Subpart B of Part 430 (other than ARM rating) to determine whether the model meets the SEER and HSPF for heat pumps required by 10 CFR § 430.32(b) and (c), the place of testing (i.e., name and address of the test laboratory), the number of units tested for each basic model, and who conducted the testing (name, address and phone).

REQUEST FOR DOCUMENTS

- 1) **Testing.** All records and other documentation pertaining to the laboratory testing for SEER and HSPF (other than ARM rating) for basic model 4SHP13LE136P + 15001+CA042A964+TDR, including any verification test reports.
- 2) **ARM rating.** All records and other documentation representing alternative rating methods, or computer simulation, used to determine SEER and HSPF, including but not limited to computer code, if computer simulation is performed, for basic model 4SHP13LE136P + 15001+CA042A964+TDR. If the document itself does not so indicate, specify the date it was performed.
- 3) **Technical documents.** All detailed technical specifications and documents related to basic model 4SHP13LE136P + 15001+CA042A964+TDR certified by Summit as compliant with DOE standards, including the model's:
 - a) service and owner's manuals;
 - b) operating instructions;
 - c) electrical ratings;
 - d) schematics; and
 - e) descriptions and specifications for each component.
- 4) **Other documents.** All documents, not otherwise specifically requested, based on which Summit concluded that basic model 4SHP13LE136P + 15001+CA042A964+TDR meets the energy efficiency standards in 10 CFR § 430.32. This may include ARM verification test data.