

constitutes a separate violation, and each such knowing violation currently is subject to a maximum penalty of \$474. 42 U.S.C. § 6303; 10 C.F.R. § 429.120.

Allegations

DOE alleges:

1. Hansgrohe has manufactured showerhead basic models 28496XX1, 2738XX1, and 16320XXX (together, the “subject models”).
2. The subject models are showerheads manufactured on or after January 1, 1994.
3. Based on information provided by Hansgrohe in a self-report, the models 28496XX1 and 2738XX1 do not comply with the maximum permissible rate of water use set forth at 10 C.F.R. § 430.32(p).
4. Based on information provided by Hansgrohe in a self-report, models 28496XX1 and 16320XXX to not comply with the minimum flow restrictor retention force requirement set forth at 10 C.F.R. § 430.32(p).
5. Hansgrohe has distributed in commerce in the United States at least 38,951 units of the subject models.
6. The subject models were not in conformity with an applicable water conservation standard.

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

What do I do now?

DOE is offering a settlement if you submit the signed Compromise Agreement within thirty (30) calendar days of the date of this Notice. As part of that settlement, you must fulfill all obligations of the Compromise Agreement, including payment of the fine within thirty (30) calendar days after DOE issues an order adopting the Agreement (“Adopting Order”).

If you do not choose to settle the case, DOE may seek as much as the maximum penalty (\$18,462,774) 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 notify DOE whether you 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 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 a signed compromise agreement within thirty (30) calendar days of the date of this notice to pay the lowest fine. If you do not wish to settle AND you wish to choose Option 1 as described above, you must notify DOE in writing within thirty (30) calendar days of the date you received this notice of your selection of Option 1. Otherwise, if you do not settle the case, DOE will refer to 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: david.case@hq.doe.gov

By fax to: (202) 586-3274

By mail to: David W. Case
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 after receiving 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, submit the signed compromise agreement. If you do not wish to accept DOE's settlement offer, notify DOE in writing 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 requires all Federal agencies to obtain the TIN in any case which may give rise to a debt to the government.

How did DOE calculate the maximum possible assessment?

Federal law sets a maximum civil penalty for each unit of a covered product or equipment that does not meet an applicable energy or water conservation standard that is distributed in commerce in the U.S. 10 C.F.R. § 429.102(a)(6). In the maximum penalty calculation in this notice, DOE has calculated a maximum penalty of \$474 per unit for 38,951 units distributed in commerce in the U.S. in the last five years. This number may be adjusted to include any additional information obtained and any increase in the maximum penalty per violation. The maximum penalty increases each year and is determined based on the date of any final order assessing a penalty.

If you have any questions, please contact David Case by email at david.case@hq.doe.gov or by phone at (202) 287-6998.

Issued by:

/S/

Stephen C. Skubel
Acting Assistant General Counsel for
Enforcement

Certificate of Service

This is to certify that on November 10, 2021, the undersigned served the designated copies of the Notice of Proposed Civil Penalty issued in DOE Case Number 2021-SW-29002 on the party listed below in the manner indicated.

NOTICE OF PROPOSED CIVIL PENALTY

Matthew B. Welling
Crowell & Moring LLP
Counsel for Hansgrohe, Inc.

By email

mwelling@crowell.com

David W. Case