

**BEFORE THE
U.S. DEPARTMENT OF ENERGY
Washington, D.C. 20585**

In the Matter of:)
Lennox Industries, Inc.) Case Number: 2020-SE-43005
(commercial package air-conditioners and heat pumps))

Issued: December 29, 2021

NOTICE OF NONCOMPLIANCE DETERMINATION

Commercial package air conditioners and heat pumps are covered equipment subject to federal energy efficiency standards. 42 U.S.C. § 6311(1)(B); 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).

Specifically, small commercial package air conditioners with a cooling capacity of $\geq 65,000$ Btu/h and $< 135,000$ Btu/h, air cooled, with electrical resistance heating or no heating, and manufactured on or after January 1, 2018 and before January 1, 2023, must have an integrated energy efficiency ratio (“IEER”) performance of not less than 12.9. 10 C.F.R. § 431.97(b).

Manufacturers and private labelers are prohibited from distributing covered products 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. § 6302(a)(5).

TESTING

In October 2019, the U.S. Department of Energy (“DOE”) tested one unit of small commercial package air conditioner model KCB092S4BN1Y, manufactured by Lennox Industries, Inc. (“Lennox”). DOE testing in accordance with DOE test procedures yielded an IEER result of 11.48. Based on this result, DOE issued a Test Notice to Lennox, requesting that it provide three units of model KCB092S4BN1Y for enforcement testing. In response, Lennox provided the requested units but indicated that it wished to concede the noncompliance of the relevant basic model KCB092S4B**Y,G,J (“the basic model”).¹ Lennox also indicated that the basic model was distributed starting January 1, 2018, and that it immediately stopped production upon receipt of DOE’s Test Notice in October 2021.

¹ Lennox certified to DOE via the Compliance Certification Management System (“CCMS”) that the tested model belongs to basic model KCB092S4B**Y,G,J.

Lennox provided DOE with a variety of information, including the number of units of the basic model manufactured and distributed in commerce in the United States, as well as a written statement indicating that while it believed that it tested and developed the rating for the model in accordance with DOE requirements, Lennox admits that the basic model does not comply with the applicable energy conservation standard of no less than 12.9.

FINDING

Based on the facts stated above, DOE finds, and Lennox admits, that the basic model does not comply with the applicable IEER standard at 10 C.F.R. § 431.97(b).

NOTICE

Distribution in commerce of covered equipment that does not meet energy conservation standards is a violation subject to civil penalty, regardless of the issuance of this Notice. If Lennox continues to distribute the basic models, DOE may assess a higher civil penalty for units sold after the date of this Notice.

MANDATORY ACTION BY LENNOX

In October 2021, Lennox provided information to DOE regarding the total number of units of the basic models that Lennox produced and distributed in commerce in the United States. Upon DOE request, Lennox may be required at a later date to provide further information regarding the units of the basic models that were distributed in commerce. 10 C.F.R. § 429.114(a).

If you claim that any of the information provided by Lennox 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.

OPTIONAL ACTIONS BY LENNOX

Lennox may elect to modify a basic model to bring it into compliance with the applicable standards. 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 part 429, any individual models within the basic model must be assigned new model numbers and Lennox 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, Lennox must provide to DOE test data demonstrating that the modified basic model complies with the applicable standards. 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

standards, DOE shall issue a Notice of Allowance to permit Lennox to resume the distribution of the modified basic model in the United States.

CONSEQUENCES FOR CONTINUING TO DISTRIBUTE THE BASIC MODEL

Should Lennox distribute in the United States any units of the basic models, 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 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/
Stephen C. Skubel
Acting Assistant General Counsel
for Enforcement