Department of Energy
Washington, DC 20585

March 25, 2010

BY FAX AND CERTIFIED MAIL

James A. Garrett
President
AeroSys, Inc.
197 Upper College Terrace
Frederick, MD 21701

Dear Mr. Garrett:

The attached notice advises you of the test results stemming from the September 24, 2009 test notice issued by the United States Department of Energy (DOE) pursuant to 10 CFR § 430.70 regarding the performance of several products manufactured by AeroSys, Inc. (AeroSys). The notice also advises you of your legal obligations.

We also note that AeroSys has never obtained the required pre-approval from DOE to rely on an alternative rating method (ARM) for certifying its products. To the extent that AeroSys chooses to rely on an ARM for certification purposes, it must comply with the applicable requirements of 10 CFR 430.24(m).

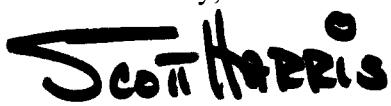
Violations of the applicable energy-efficiency standards may be subject to civil penalties. Separate from this notice, DOE intends to review this case and to issue a notice of liability for such penalties as appropriate.

As specified in the attached notice, DOE asks that AeroSys acknowledge receipt of this notice and inform the agency within 15 calendar days of the steps AeroSys will take to comply with the requirements set forth in this letter.

Printed with soy ink on recycled paper

Should you have any questions or require additional time to respond, please contact either Michael Kido at (202) 586-8145, or Ada Mitrani at (202) 586-5550, of my staff.

Sincerely,



Scott Blake Harris
General Counsel

Attachment(s): Notice of Noncompliance Determination

cc: Mr. Michael Hourigan
Ferguson, Schetelich & Ballew, P.A.
1401 Bank of America Center
100 South Charles Street
Baltimore, MD 21201-2725

Sent By Email

cc: Thomas Echikson
Sidley Austin LLP
1501 K Street, N.W.
Washington, DC 20005

Sent By Email

U.S. Department of Energy

1000 Independence Ave, SW
Washington, DC 20585

In the matter of:	)	
	)	Case Number 2010-SE-0302
AeroSys, Inc.	)	
	)	

NOTICE OF NONCOMPLIANCE DETERMINATION

Service by FACSIMILE AND CERTIFIED MAIL
to: AeroSys, Inc.
929 Eldridge Drive
Hagerstown, MD 21740

TESTING UNDER DOE REGULATIONS

In accordance with 10 CFR § 430.70, the Department of Energy (DOE) is conducting enforcement-related testing to determine whether seven (7) basic models manufactured by AeroSys, Inc. (AeroSys) comply with the applicable standards provided in 10 CFR § 430.32(c). (The terms "basic model" and "model" are used interchangeably.) Testing for the THDC-18R*, THDC-18S*, THDC-18T* models is ongoing. Testing is complete for models THDC-24T*, THHP-24T*, and THDC-30T*. The completed testing has yielded the following results:

Tested Model	Part Number	Testing Results
THDC-24T*	THDC-24TG	Pass
THHP-24T* (Heat Pump)	THHP-24TG	Fail
THDC-30T*	THDC-30TG	Fail

FINDINGS

Based on the testing results described above, DOE has determined that the THHP-24T* and THDC-30T* models do not meet the applicable DOE standards.

MANDATORY ACTIONS BY AEROSYS

In light of the above findings, with respect to the THHP-24T* (Heat Pump), and THDC-30T* models, AeroSys must take the following steps in accordance with 10 CFR § 430.71:

(1) Immediately cease distribution in commerce of all THHP-24T* (Heat Pump), and THDC-30T* models;

(2) Provide immediate written notification of this noncompliance determination to all persons to whom AeroSys has distributed units of the THHP-24T* (Heat Pump), and THDC-30T* models; and

(3) 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 all THHP-24T* (Heat Pump), and THDC-30T* models.

OPTIONAL ACTIONS BY AEROSYS

In addition to the mandatory steps listed above that AeroSys must complete, AeroSys may avail itself of other options with respect to the models that DOE has determined to be in noncompliance. Specifically, AeroSys may request additional testing or make immediate changes to its products to bring them into compliance with the applicable standard.

(1) Additional Testing

AeroSys may request that DOE conduct additional testing of each model found to be noncompliant.

All units must be tested in accordance with 10 CFR § 430.70(a)(1)-(5), and AeroSys shall bear the costs of all testing that is conducted.

Until DOE determines that a tested model complies with the applicable standard, that model may not be sold or otherwise distributed by AeroSys.

If, after this testing, DOE determines that a model complies with the applicable standard, DOE shall issue a notice of allowance to permit AeroSys to resume the distribution of the affected models.

(2) Modifications to Current Models

AeroSys may also elect to modify the basic models that have been determined to be noncompliant to bring them into compliance with the applicable standard.

Should AeroSys 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.

AeroSys 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

Should AeroSys 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, AeroSys provides DOE with a satisfactory statement within that 15-day period detailing the steps that AeroSys 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.

The distribution of any noncompliant models, 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 distributed in violation of Federal law.

Dated: 3.25.2010

Scott Harris

Scott Blake Harris
General Counsel