



For more information or if you have any questions about this and other environmental law topics please contact any attorney on our Environmental team or the authors below.

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U.S. Department of Energy Finalizes Landmark Energy Efficiency Consent Decree

On January 7, 2010, the U.S. Department of Energy (DOE) entered into a Consent Decree with Haier America Trading, LLC (Haier) as a result of Haier's possible noncompliance with energy efficiency standards and the voluntary ENERGY STAR® labeling program. Haier self-disclosed the alleged violations, which are limited to approximately 3,000 freezers and appear to have resulted from a defective part. The Consent Decree is nevertheless notable because it marks the first time DOE has issued a Consent Decree to enforce Energy Policy and Conservation Act minimum energy efficiency standards. It also is part of DOE's continued enforcement focus on energy efficiency and the use of the voluntary ENERGY STAR® label.

"Enhanced energy efficiency is a national priority, and DOE will continue to vigorously enforce energy efficiency standards and ENERGY STAR® criteria," said DOE General Counsel Scott Blake Harris.

Under the Consent Decree, Haier agreed to repair the freezers at issue at the freezer's location, take multiple steps to notify owners of the units of their right to the repairs, pay \$150,000 to the U.S. Treasury, and extend the freezers' warranty.

Given DOE's focus on "green" and "sustainable" issues, we believe the Haier enforcement action will not be the last. DOE, both alone and in concert with the U.S. Environmental Protection Agency, will continue to police green issues, including compliance with mandatory requirements – such as the energy efficiency standards issued under the Energy Policy and Conservation Act – and, more broadly, voluntary ones, such as ENERGY STAR® and other "green" product claims. Enforcement relating to voluntary claims implicates issues both traditionally related to environmental law and those traditionally related to advertising law and, as a result, will create complications for both the regulators and the regulated community alike.

For further information about DOE's enforcement objectives, Venable's Green Business group, or how to ensure your "green" marketing efforts are legally compliant, please contact Lowell Rothschild or Melissa Steinman.

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