

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

In the Matter of:)
)
AHT Cooling Systems, Inc.) Case Number: 2015-SE-42031
(commercial refrigeration equipment))
)

Issued: October 14, 2015

NOTICE OF NONCOMPLIANCE DETERMINATION

Commercial refrigerators, freezers and refrigerator-freezers are covered equipment subject to federal energy conservation standards. 42 U.S.C. §§ 6311(1)(E), 6313(c), and 10 C.F.R. § 431.66(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. § 6316(a).

TESTING

On March 30, 2015, the U.S. Department of Energy (“DOE”) tested one unit of AHT Cooling Systems, Inc. (“AHT”) commercial refrigeration equipment nameplate model number RIO S 68 L F (“the nameplate model”). On June 19, 2015, DOE issued a Test Notice pursuant to 10 C.F.R. § 429.110(b), requiring AHT to ship three units of the nameplate model to a designated test facility. In May 2015, DOE completed testing of these three additional units of the nameplate model, in accordance with DOE test procedures.

DOE’s testing in accordance with DOE test procedures (10 C.F.R. § 431.64) demonstrates that the basic model is not in compliance with the applicable energy conservation standard. Model RIO S 68 L F is a self-contained horizontal closed transparent commercial ice cream freezer.¹ 10 C.F.R. § 431.66(d)(1). Given the tested units’ mean total display area, the maximum permissible rate of energy consumption for the model was 2.17 kilowatt hours per day (kWh/day).² Based on their performance during testing, the four units that DOE tested consumed energy at the rates of 3.81, 3.43, 3.86, and 3.40 kWh/day.

¹ Ice-cream freezer is defined at 10 CFR 431.62 as a commercial freezer that is designed to operate at or below –5 °F (±2 °F) (–21 °C ±1.1 °C) and that the manufacturer designs, markets, or intends for the storing, displaying, or dispensing of ice cream.

² Under 10 C.F.R. § 431.66(d)(1), the maximum energy use, in kWh/day, of a self-contained horizontal closed transparent commercial ice cream freezer may not exceed 0.43 plus the product of 0.56 and the total display area of the ice-cream freezer (0.56 x TDA + 0.43).

MODEL NUMBERS

On June 22, 2015, AHT indicated via email that the certification of compliance for the nameplate model was listed on line 85 of CCMS #66415. This line, however, provides a certification of compliance for basic model RIO S 68 F L R404A. AHT stated that the tested nameplate model (RIO S 68 L F) is also called RIO S 68 L F R404A,³ and is the same as model RIO S 68 F L R404A. AHT also confirmed that the nameplate model was certified as a commercial freezer.

On October 6, 2015, AHT clarified that model RIO S 68 F L R404A also contains individual models “RIO S 68 F R404A,” “RIO S 68 F L R404A,” and “NUCAB AT150 F R404A.”

On October 8, 2015, AHT further stated that the nameplates on the tested units were erroneously marked as RIO S 68 L F R404A, instead of RIO S 68 F L R404A.

FINDINGS

Based on the facts stated above, DOE has determined that all freezer models with a nameplate model number of RIO S 68 F L or RIO S 68 L F, including models RIO S 68 F L R404A and RIO S 68 L F R404A, indicate the same basic model (“the basic model”), regardless of refrigerant.

Based on the facts stated above, DOE has also determined that the basic model, including each individual model within the basic model, does not comply with the applicable energy conservation standard. DOE also determined that the certification provided for the basic model provides inconsistent model numbers and fails to indicate that the basic model is a commercial ice cream freezer.

MANDATORY ACTIONS BY AHT

In light of the above findings, AHT must take the following steps in accordance with 10 C.F.R. § 429.114(a):

- (1) Immediately cease distribution in commerce in the United States of all units of the basic model;
- (2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom AHT (or any affiliated or parent company) has distributed units of any model within the basic model;
- (3) Provide to DOE within 15 calendar days of the date of this Notice a copy of the written notification required by paragraph (2) and a list of the parties AHT notified; and

³ AHT stated that “R404A” denotes the name of the model’s refrigerant.

(4) Provide to DOE within 30 calendar days of the date of this Notice any and all records, reports, and other documentation pertaining to the acquisition, ordering, storage, shipment, or sale of units of the basic model in the United States in the past five years.⁴

(5) Submit a valid certification of compliance to DOE within 30 calendar days of this Notice for the basic model (and any individual models related to the basic model) and provide the new CCMS # to smitha.vemuri@hq.doe.gov; and

(6) Ensure that all units distributed in commerce by AHT that meet the definition of “commercial ice-cream freezer” (10 CFR 431.62) have been tested and are certified with the appropriate product class designation within 30 calendar days of this Notice.

If you claim that any of the information sought by this Notice 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 CFR § 429.7. Failure to adhere to these procedures will result in a rejection of your request for confidential treatment.

OPTIONAL ACTIONS BY AHT

In addition to the mandatory steps listed above that AHT must complete, AHT may elect to modify the basic model to bring it into compliance with the applicable standard. 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 C.F.R. Part 429. Prior to distribution in commerce in the United States, AHT must provide to DOE test data demonstrating that the modified basic model complies with the applicable standard.⁵ All units must be tested in accordance with DOE regulations, and AHT 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 standard, DOE shall issue a Notice of Allowance to permit AHT to resume the distribution of the modified basic model in the United States. Until DOE determines that the modified basic model complies with the applicable standard, AHT is prohibited from selling or otherwise distributing units in commerce in the United States.

⁴ Please note that “[t]he terms ‘to distribute in commerce’ and ‘distribution in commerce’ mean to sell in commerce, to import, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.” 42 U.S.C. § 6291(16). Accordingly, units manufactured and held in inventory must be reported.

⁵ DOE may require that this testing be performed at an independent, third-party testing facility.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should AHT fail to cease immediately the distribution in the United States of all units of models within the basic model, this letter serves as notice that DOE may seek a judicial order within 30 calendar days to restrain further distribution. If, however, AHT provides DOE with a satisfactory statement within that 30-day period detailing the steps that AHT will take to ensure that units of the noncompliant basic 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/_____
Laura L. Barhydt
Assistant General Counsel