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

In the Matter of:)	
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Cayuga Displays, Inc.)	Case Number: 2017-CE-42027
(commercial refrigerators, freezers and)	
refrigerator-freezers))	
)	

Issued: January 25, 2018

NOTICE OF NONCOMPLIANCE DETERMINATION

Commercial refrigerators, freezers and refrigerator-freezers (commercial refrigeration equipment) are covered equipment subject to federal energy conservation standards. 10 C.F.R. §§ 431.2, 431.66. Manufacturers and private labelers are prohibited from distributing in commerce¹ covered equipment in the United States that does not comply with applicable federal energy conservation standards. 10 C.F.R. § 429.102(a)(6).

On March 30, 2017, Cayuga Displays, Inc. ("Cayuga") submitted CCMS report # 112185 to the U.S. Department of Energy ("DOE") in an attempt to certify the compliance of various basic models of commercial refrigeration equipment. Basic models ACTR-96-82, HVMR-48-52, MDMR-96-52, HVMR-96-52, ASSR-57-76, and ASSR-96-76 were certified to DOE in the report with daily energy consumption ratings in kilowatt hours per day (kWh/day) that do not meet the applicable energy conservation standards for their reported equipment category, family, and class designations. On June 20, 2017, DOE requested that Cayuga provide test data underlying their certification of 25 basic models listed in CCMS report # 112185. In August and September 2017, Cayuga provided a variety of test reports to DOE. On October 4, 2017, DOE and Cayuga participated in a phone call in order to discuss the test reports and the applicable standards. On October 23, 2017, Cayuga provided information to DOE in writing, admitting that it imported various basic models into the U.S. on or after March 27, 2017, that do not meet the applicable standards. In November 2017 and January 2018, Cayuga provided follow-up information in writing and on the phone, clarifying exactly which models fail to meet applicable standards at 10 C.F.R. § 431.66(e). The models identified by Cayuga are remote condensing commercial refrigerators, specifically Cayuga Displays brand models ACTR-96-82; HVMR-48-52 (with a total display area of 16.32 ft²); MDMR-96-52; and Arctica Showcase brand models ASSR-57-76; ASSR-96-76; HVMR-96-52 (with a total display area of 32.46 ft²); MDMR-96-52; SDLR-76-34; and SDLR-96-34 ("the basic models").

¹ 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).

FINDINGS

Based on the facts stated above, DOE has determined (and Cayuga has admitted), that the basic models do not comply with the applicable energy conservation standards at 10 C.F.R. § 431.66(e).

MANDATORY ACTIONS BY CAYUGA

In light of the above findings, Cayuga 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 models;
- (2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Cayuga (or any affiliated or parent company), has distributed units of any model within the basic models;
- (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 that Cayuga notified.

Cayuga already provided DOE with records indicating how many units of the basic models Cayuga distributed in commerce in the United States on or after March 27, 2017.

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 CAYUGA

In addition to the mandatory steps listed above that Cayuga must complete, Cayuga may elect to modify a basic model to bring it into compliance with the current applicable standard. 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 this part, any models within the basic model must be assigned new model numbers and Cayuga 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 of the modified basic model in commerce in the United States, Cayuga must provide to DOE test data demonstrating that the modified basic model complies with the applicable standard.² All units must be tested in accordance with DOE regulations, and Cayuga shall bear the costs of all such testing.

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² DOE may require that this testing be performed at an independent, third-party testing facility.

If, after this testing, DOE determines that the modified basic model complies with the applicable standard, DOE will issue a Notice of Allowance to permit Cayuga 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, Cayuga is prohibited from selling or otherwise distributing units in commerce in the United States.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should Cayuga 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 will seek a judicial order within 30 calendar days to restrain further distribution. If, however, Cayuga provides DOE with a satisfactory statement within that 30-day period detailing the steps that Cayuga 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.

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Laura L. Barhydt Assistant General Counsel for Enforcement