

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

In the Matter of:	)	
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	)	
<b>Stajac Industries, Inc.</b>	)	Case Number: 2016-SE-42042
(commercial refrigerators, freezers and	)	
refrigerator-freezers)	)	
	)	
	)	

Issued: August 4, 2017

**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 commerce<sup>1</sup> 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 October 21, 2016, Stajac Industries, Inc. (“Stajac”) submitted CCMS report # 103662 to the U.S. Department of Energy (“DOE”) in an attempt to certify the compliance of Excellence brand self-contained, horizontal closed transparent, commercial ice cream freezer basic models DS-30 and DS-48 (“the basic models”). Stajac certified that basic model DS-30 had a total display area of 2.48 square feet (ft<sup>2</sup>) and a calculated daily energy consumption of 5.3 kilowatt hours per day (kWh/day). Stajac also certified that basic model DS-48 had a total display area of 4.13 square feet (ft<sup>2</sup>) and a calculated daily energy consumption of 6.5 kilowatt hours per day (kWh/day).

On May 16, 2017, DOE requested that Stajac provide test data underlying their certification of the basic models. On July 25, 2017, Stajac provided DOE with a signed statement confirming that Stajac did not have in its possession any test reports to support its certification in CCMS # 103662 of the basic models. In their statement, Stajac admitted that the basic models do not comply with the applicable energy conservation standards at 10 C.F.R. § 431.66(d)(1) and 10 C.F.R. § 431.66(e)(1).

The basic models are self-contained, horizontal closed transparent, commercial ice cream freezers with a total display area of 2.48 ft<sup>2</sup> and 4.13 ft<sup>2</sup>, respectively. Under 10 C.F.R.

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<sup>1</sup> 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).

§ 431.66(b)(1) and 10 C.F.R. § 431.66(e)(1), the maximum daily energy consumption (“MDEC”) for this product class for units with these total display areas are 1.83 kWh/day and 2.73 kWh/day, respectively.<sup>2</sup>

### FINDINGS

Based on the facts stated above, DOE has determined, and Stajac concedes, that the basic models (including each individual model within the basic models) do not comply with the applicable energy conservation standards at 10 C.F.R. § 431.66(d)(1) and 10 C.F.R. § 431.66(e)(1).

### MANDATORY ACTIONS BY STAJAC

In light of the above findings, Stajac 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 Stajac (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 Stajac notified; and
- (4) Provide to DOE within 30 calendar days of the date of this Notice records sufficient to show the number of units of the basic models that Stajac distributed in commerce in the United States, including all units imported into the United States, in the past five years.

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.

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<sup>2</sup> The maximum energy use, in kWh/day, for units manufactured after January 1, 2010, may not exceed 0.43 plus the product of 0.56 and the total display area of the ice cream freezer (0.56TDA + 0.43).

## OPTIONAL ACTIONS BY STAJAC

In addition to the mandatory steps listed above that Stajac must complete, Stajac 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 Stajac 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, Stajac must provide to DOE test data demonstrating that the modified basic model complies with the applicable standard.<sup>3</sup> All units must be tested in accordance with DOE regulations, and Stajac shall bear the costs of all such testing.

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 Stajac 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, Stajac is prohibited from selling or otherwise distributing units in commerce in the United States.

## CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should Stajac 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, Stajac provides DOE with a satisfactory statement within that 30-day period detailing the steps that Stajac 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  
for Enforcement

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<sup>3</sup> DOE may require that this testing be performed at an independent, third-party testing facility.