

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

In the Matter of:

Cooltech Refrigeration, Inc.

(commercial refrigerators, freezers, and
refrigerator-freezers)

Case Number: 2019-SE-42020

Issued: September 14, 2022

NOTICE OF NONCOMPLIANCE DETERMINATION

Commercial refrigerators, freezers, and refrigerator-freezers are covered equipment subject to federal energy conservation standards. 10 C.F.R. §§ 431.2 and 431.62. Manufacturers and private labelers are prohibited from distributing in commerce¹ in the United States covered equipment that do not comply with an applicable energy conservation standard. 10 C.F.R. § 429.102(a)(6).

TESTING

On June 15, 2019, the U.S. Department of Energy (“DOE”) tested one unit of Cooltech Refrigeration, Inc. (“Cooltech”) brand commercial refrigerator nameplate Model CMPH-38SG. DOE’s testing in accordance with DOE test procedures (10 C.F.R. § 431.64) demonstrated that model CMPH-38SG is not in compliance with the applicable energy conservation standard at 10 C.F.R. § 431.66(e)(1). Model CMPH-38SG is a medium temperature commercial refrigerator with a self-contained condensing unit designed for holding temperature applications, vertical closed transparent doors, and a chilled compartment volume of 26.99 cubic feet. Therefore, the maximum daily energy consumption of Model CMPH-38SG, for units manufactured on or after September 15, 2014, is 3.56 kilowatt hours per day (kWh/day). Based on its performance during testing, the unit DOE tested consumed energy at a rate of 5.74 kWh/day.

On September 23, 2019, DOE issued to Cooltech a Test Notice pursuant to 10 C.F.R. § 429.110(b), requiring Cooltech to ship three units of nameplate Model CMPH-38SG to a designated test facility for enforcement testing. Cooltech subsequently provided three units for testing; however, one of the units was not functional. Accordingly, DOE was able to test only two of the three units Cooltech provided. DOE tested those two units in accordance with the applicable DOE test procedures. The two units that DOE tested performed at a maximum daily energy consumption rate of 4.80 and 4.81 kWh/day, respectively.

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 finds that the basic model² that includes individual model CMPH-38SG (“the basic model”) is a medium temperature commercial refrigerator with a self-contained condensing unit designed for holding temperature applications, vertical closed transparent doors, and a chilled compartment volume of 26.99 cubic feet, that is subject to the federal energy conservation standard at 10 C.F.R. § 431.66(e)(1). After applying the calculations in 10 C.F.R. Part 429, Subpart C, Appendix B, DOE finds that the basic model does not comply with the applicable federal energy conservation standard.

NOTICE

Distribution in commerce of covered equipment that does not meet an applicable energy conservation standard is a violation subject to civil penalty, regardless of the issuance of this Notice. If Cooltech continues to distribute the basic model, DOE may assess a higher civil penalty for units sold after the date of this Notice.

MANDATORY ACTION BY COOLTECH

In light of the above findings, Cooltech must, within 30 calendar days of the date of this Notice, provide to DOE records sufficient to show the number of units of the basic model that Cooltech distributed in commerce in the United States in the past five years, categorized by year.

10 C.F.R. § 429.114(a). This includes all units that remain in Cooltech’s inventory that were manufactured (including importation) on or after September 14, 2017. You may send those records to the undersigned attorney via electronic mail at dion.casey@hq.doe.gov.

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 C.F.R. § 429.7. Failure to adhere to these procedures will result in a rejection of your request for confidential treatment.

OPTIONAL ACTIONS BY COOLTECH

In addition to the mandatory steps listed above that Cooltech must complete, Cooltech may elect to modify the basic model to bring it into compliance with the applicable standard.³ 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 part 429, any individual models within the basic model must be assigned new model numbers.

² A “basic model” is all units manufactured by one manufacturer that have the same primary energy source and essentially identical electrical, physical, and functional characteristics that affect energy consumption or energy efficiency. *See* 10 C.F.R. § 430.2.

³ Under 10 C.F.R. § 431.66(e)(1), the maximum energy use, in kWh/day, of a self-contained, vertical closed transparent, commercial refrigerator designed for holding temperature applications, with a chilled compartment volume of 26.99 feet³, manufactured on or after September 15, 2014, may not exceed 0.86 plus the product of 0.1 and the chilled or frozen compartment volume (0.1V + 0.86).

In addition, Cooltech must maintain, and provide to DOE upon request, records that demonstrate that modifications have been made to all units of the new basic model prior to distribution in commerce. Prior to distribution in commerce in the United States, Cooltech must provide to DOE test data demonstrating that the modified basic model complies with the applicable standard.⁴ All units must be tested in accordance with DOE regulations, and Cooltech 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 standards, DOE shall issue a Notice of Allowance to permit Cooltech to resume the distribution of the modified basic model in the United States.

CONSEQUENCES FOR CONTINUING TO DISTRIBUTE THE BASIC MODEL

Should Cooltech fail to cease immediately the distribution in the United States of all units of the basic models, this letter serves as notice that DOE may seek a judicial order within 30 calendar days to restrain further distribution. If, however, Cooltech provides DOE with a satisfactory statement within that 30-day period detailing the steps that Cooltech will take to ensure that units of the noncompliant models 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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⁴ DOE may require that an independent, third-party testing facility perform this testing.

Certificate of Service

This is to certify that on September 14, 2022, the undersigned served the designated copies of the Notice of Noncompliance Determination issued in DOE Case Number 2019-SE-42020 on the party listed below in the manner indicated.

Man Kuen Lee
Chief Executive Officer
Cooltech Refrigeration, Inc.
cooltechrefrigeration@gmail.com

PDF
Email

Dion Casey
Trial Attorney