

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

In the Matter of: )

CNA International, Inc., )  
d/b/a MC Appliance Corp. )  
(freezers) )

Case Number: 2013-SE-1430

Issued: July 1, 2013

**NOTICE OF NONCOMPLIANCE DETERMINATION**

Freezers are covered products subject to federal energy conservation standards as described in 42 U.S.C. § 6295(b) and 10 C.F.R. § 430.32(a). 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; 42 U.S.C. § 6302. CNA International, Inc., d/b/a MC Appliance Corp. ("CNA") is a private labeler and owns the "Magic Chef" trademark, which CNA uses to distribute freezers in commerce in the United States.

**TESTING**

The U.S. Department of Energy ("DOE") tested four units of [REDACTED] freezer basic model [REDACTED] ("the basic model"), manufactured in [REDACTED] by [REDACTED], that had been distributed in commerce in the United States by a third-party private labeler. The basic model is privately labeled and distributed in commerce in the United States by CNA as Magic Chef-brand model HMCF7W ("CNA model HMCF7W").

DOE's testing in accordance with DOE test procedures (10 C.F.R. Part 430, Subpart B, Appendix B1) demonstrated that the basic model was not in compliance with the applicable federal energy conservation standard. Given the tested units' measured volumes, the maximum permissible rate of energy consumption was [REDACTED] kilowatt hours per year (kWh/yr).<sup>1</sup> Based on their performance during testing, the four units that DOE tested consumed energy at the rates of [REDACTED] kWh/yr, an average of [REDACTED] percent over the federal limit.

**FINDINGS**

Based on the facts stated above, DOE has determined, after applying the calculations set forth in 10 C.F.R. Part 429, Subpart C, Appendix A, that the basic model, including CNA model HMCF7W and all other models in the basic model, does not comply with the applicable federal energy conservation standard.

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<sup>1</sup> Under 10 C.F.R. § 430.32(a), the maximum energy use, in kWh/yr, of a compact chest freezer may not exceed 152 plus the product of 10.45 and the total adjusted volume of the particular freezer (10.45AV + 152.0).

## MANDATORY ACTIONS BY CNA

In light of the above finding, CNA 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, regardless of label, within the basic model, including CNA model HMCF7W;
- (2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom CNA has distributed units, regardless of label, of any model in the basic model, including CNA model HMCF7W; and
- (3) Provide to DOE within 15 calendar days of the date of the Notice a copy of the written notification required by paragraph (2) and a list of the parties that CNA notified.

The response required by paragraph (3) must be dated, signed, and notarized, and must include a declaration under penalty of perjury that the contents of the responses are true. Specifically, the person signing the response must attest the following: "I declare under penalty of perjury that the statements contained in this response are true, correct, and complete."


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.

### CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should CNA fail to cease immediately the distribution in the United States of all units, regardless of label, of models in the basic model, including CNA model HMCF7W, this letter serves as notice that DOE will seek a judicial order within 30 calendar days to restrain further distribution. If, however, CNA provides DOE with a satisfactory statement within that 30-day period detailing the steps that CNA 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