

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

In the Matter of:

**Electrolux Home Products**  
(residential freezers)

Case Number: 2014-SE-14013

Issued: January 19, 2017

**NOTICE OF NONCOMPLIANCE DETERMINATION**

Residential refrigerators, refrigerator-freezers, and freezers are covered products subject to federal energy conservation standards. 42 U.S.C. § 6295(b) and 10 C.F.R. § 430.32(a). Manufacturers (including importers) and private labelers are prohibited from distributing in commerce\* 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. § 6302(a)(5).

**TESTING**

The U.S. Department of Energy (“DOE”) tested six units of Frigidaire freezer basic model U21 (“the basic model”), manufactured by Electrolux Home Products (“Electrolux”). DOE’s testing in accordance with applicable DOE test procedures (10 C.F.R. Part 430, Subpart B, Appendix B1 (Jan. 1, 2016 edition)) demonstrates that the basic model is not in compliance with the applicable energy conservation standard. Basic model U21 belongs to the product class “Upright freezers with manual defrost.” 10 C.F.R. § 430.32(a). The maximum annual energy use (AEU) for this product class for units with an adjusted volume equal to the average of the tested units and manufactured on or after July 1, 2001 and prior to September 15, 2014, is 528 kWh/year. The six units that DOE tested performed at an AEU of 578, 563, 535, 542, 640, and 565 kWh/year, respectively.

**FINDING**

Based on the facts stated above, DOE has determined that the basic model (including each individual model within the basic model) does not comply with the applicable energy conservation standard.

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\* 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).

## MANDATORY ACTIONS BY ELECTROLUX

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

- (1) Immediately cease distribution in U.S. commerce of all units of each model within the basic model;
- (2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Electrolux has distributed units of the basic model; and
- (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 Electrolux notified.
- (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.

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

In addition to the mandatory steps listed above that Electrolux must complete, Electrolux may elect to modify the basic model to bring it into compliance with the 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 Electrolux 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 in commerce in the United States, Electrolux must provide to DOE test data demonstrating that the modified basic model complies with the applicable standard. †All units must be tested in accordance with DOE regulations, and Electrolux 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 will issue a Notice of Allowance to permit Electrolux to distribute the modified basic model in the United States. Until DOE determines that the modified basic model complies

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

with the applicable standard, Electrolux is prohibited from selling or otherwise distributing units in commerce in the United States.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

If Electrolux fails to cease immediately the distribution in the United States of all units of 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, Electrolux provides DOE with a satisfactory statement within that 30-day period detailing the steps that Electrolux 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, including during any manufacturer initiated testing as described above, 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