

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

In the Matter of:)
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)

Commercial Display Systems)
(doors for walk-in coolers and freezers))
)

Case Number: 2019-SE-53001

Issued: July 16, 2019

NOTICE OF NONCOMPLIANCE DETERMINATION

Components of walk-in coolers and freezers (“WICF”), including doors, are covered equipment subject to federal energy conservation standards. 42 U.S.C. §§ 6311(1)(G), 6313(f), and 10 C.F.R. § 431.306. Manufacturers and private labelers are prohibited from distributing covered equipment 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. § 6316(a). Specifically, medium temperature display doors manufactured starting June 5, 2017, must have a maximum energy consumption of no more than $0.04 \times A_{dd} + 0.41$. Low temperature display doors manufactured starting June 5, 2017, must have a maximum energy consumption of no more than $0.15 \times A_{dd} + 0.29$.¹ 10 C.F.R. § 431.306(c).

On July 12, 2018, Commercial Display Systems (“Commercial Display”) submitted CCMS report # 157108 to the U.S. Department of Energy (“DOE”) in an attempt to certify the compliance of models LF2379; LF2379, nhg; and LC2367 (“the basic models”). The basic models 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 class designations. On December 20, 2018, DOE requested that Commercial Display provide test data underlying their certification of the basic models in CCMS report # 157108. In January and April 2019, Commercial Display provided a variety of test reports to DOE. On May 3, 2019, DOE and Commercial Display participated in a phone call in order to discuss the test reports and the applicable standards. On May 7, 2019, Commercial Display provided additional calculations and information to DOE in response to the Request for Data.

On June 25, 2019, Commercial Display provided DOE with a written statement, admitting that it manufactured and distributed in commerce in the United States the basic models, and that the basic models do not comply with the applicable energy conservation standards at 10 C.F.R. § 431.306(c). In the written statement, Commercial Display stated that LF2379 and LF2379, nhg are low temperature display doors for walk-in freezers each with a surface area of 14.2 ft², and LC2367 is a medium temperature display door for walk-in coolers with a surface area of 12.1 ft².

¹ A_{dd} represents the surface area of the display door.

The test data provided demonstrated that models LF2379; LF2379, nhg; and LC2367 have a daily energy consumption of 3.88, 2.86, and 1.16 kWh/day, respectively.

FINDINGS

Based on the facts stated above, DOE has determined (and Commercial Display has admitted), that the basic models do not comply with the applicable energy conservation standards at 10 C.F.R. § 431.306(c).

NOTICE

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

MANDATORY ACTION BY COMMERCIAL DISPLAY

In light of the above findings, Commercial Display 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 models that Commercial Display distributed in commerce in the United States since June 5, 2017. 10 C.F.R. § 429.114(a). This includes all units that remain in Commercial Display's inventory that were manufactured on or after June 5, 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 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 COMMERCIAL DISPLAY

In addition to the mandatory steps listed above that Commercial Display must complete, Commercial Display may elect to modify a basic model to bring it into compliance with the applicable standards. 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 and Commercial Display 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, Commercial Display must provide to DOE test data demonstrating that the modified basic model complies with the applicable standards.² All units must be tested in accordance with DOE regulations, and Commercial Display shall bear the costs of all such testing that is conducted.

² DOE may require that an independent, third-party testing facility perform this testing.

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 Commercial Display to resume the distribution of the modified basic model in the United States.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should Commercial Display 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, Commercial Display provides DOE with a satisfactory statement within that 30-day period detailing the steps that Commercial Display will take to ensure that units of the noncompliant 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