

MODEL NUMBERS

In July 2015, Carter-Hoffmann confirmed via email that the nameplate model IRAC15-1 is the same as model IRAC15-2 and that both models share the same product manual.

FINDINGS

Based on the facts stated above, DOE has determined that all refrigerator models with a nameplate model number of IRAC15-1 and IRAC15-2 indicate the same basic model (“the basic model”).

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.

DOE has also determined that to date, Carter-Hoffmann has not provided DOE with valid certifications of compliance for any commercial refrigeration equipment.²

MANDATORY ACTIONS BY CARTER-HOFFMANN

In light of the above findings, Carter-Hoffmann 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 model;
- (2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Carter-Hoffmann (or any affiliated or parent company), has distributed units of any model within the basic model;
- (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 Carter-Hoffmann notified; and
- (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.³

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

² Failure to submit a certification report for covered equipment as required by 10 C.F.R. Part 429 is a prohibited act pursuant to 10 C.F.R. § 429.102(a)(1) and subject to civil penalty as described in 10 C.F.R. § 429.120.

³ 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).

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 BY CARTER-HOFFMANN

In addition to the mandatory steps listed above that Carter-Hoffmann must complete, Carter-Hoffmann 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 Carter-Hoffmann 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, Carter-Hoffmann 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 Carter-Hoffmann 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 Carter-Hoffmann to distribute the modified basic model in the United States. Until DOE determines that the modified basic model complies with the applicable standard, Carter-Hoffmann is prohibited from selling or otherwise distributing units in commerce in the United States.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should Carter-Hoffmann 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 may seek a judicial order within 30 calendar days to restrain further distribution. If, however, Carter-Hoffmann provides DOE with a satisfactory statement within that 30-day period detailing the steps that Carter-Hoffmann 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

⁴ DOE may require that this testing be performed at an independent, third-party testing facility.