

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

In the Matter of:)	
)	
Arneg LLC)	Case Numbers: 2018-SE-42016 and
(commercial refrigerators, freezers, and)	2018-CE-42010
refrigerator-freezers))	

Issued: September 19, 2022

NOTICE OF NONCOMPLIANCE DETERMINATION

Commercial refrigerators, freezers, and refrigerator-freezers (“commercial refrigeration equipment”) are covered equipment subject to federal energy conservation standards. 42 U.S.C. § 6311(1)(E), 10 C.F.R. §§ 431.2, 431.62, and 431.66. Manufacturers and private labelers are prohibited from distributing in commerce¹ in the United States covered equipment that does not comply with the applicable federal energy conservation standards. 10 C.F.R. § 429.102(a)(6).

TESTING

In April 2018, the U.S. Department of Energy (“DOE”) tested one unit of Arneg LLC (“Arneg”) commercial freezer and ice-cream freezer nameplate model Urano Header in accordance with the applicable DOE test procedures at 10 C.F.R. § 431.64. The Urano Header model is both a horizontal, medium-temperature commercial freezer and a horizontal ice-cream freezer, with a self-contained condensing unit designed for holding temperature applications and transparent doors. Accordingly, DOE tested each unit twice, once in accordance with the applicable DOE test procedure for commercial freezers, and once in accordance with the applicable DOE test procedure for ice-cream freezers. DOE’s testing demonstrated that the Urano Header model was not in compliance with either of the applicable energy conservation standards at 10 C.F.R. § 431.66(e).

On July 9, 2018, pursuant to 10 C.F.R. § 429.110(b), DOE issued to Arneg a Test Notice under Case Number 2018-SE-42016. The Test Notice required Arneg to ship three units of the Urano Header model to a designated test facility. Arneg subsequently provided DOE with three units for testing, and DOE completed testing of those three units in accordance with the applicable DOE test procedures at 10 C.F.R. § 431.64. DOE again tested each unit twice, once in accordance with the applicable DOE test procedure for commercial freezers, and once in accordance with the applicable DOE test procedure for ice-cream freezers.

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).

Given the four tested units' mean frozen compartment volume of 27.4 cubic feet, the maximum permissible energy consumption rate for the model as a commercial freezer, for units manufactured on or after September 15, 2014, is 3.42 kilowatt hours per day (kWh/day).² Given the four tested units' mean total display area of 12.81 square feet, the maximum permissible energy consumption rate for the model as an ice-cream freezer, for units manufactured on or after September 15, 2014, is 7.60 kWh/day.³

The four units that DOE tested as a commercial freezer consumed energy at the rates of 8.35, 8.60, 8.82, and 8.63 kWh/day. The same four units that DOE tested as an ice-cream freezer consumed energy at the rates of 9.31, 9.68, 9.86, and 9.78 kWh/day.

ARNEG ADMISSIONS

In June 2018, under Case Number 2018-CE-42010, DOE requested that Arneg provide test reports underlying its belief that all the models in Arneg's Gander model line were in compliance with the applicable energy conservation standards. The units in the Gander model line are horizontal commercial refrigerators⁴ and freezers with a self-contained condensing unit designed for holding temperature applications and transparent doors, and horizontal ice-cream freezers with a self-contained condensing unit designed for holding temperature applications and transparent doors. As a part of its response to DOE's request, Arneg stated that testing of the models under its Gander line demonstrated non-compliance with the applicable DOE energy conservation standards, and that the models were no longer available for sale in the United States as of January 9, 2020.

In late 2019, Arneg informed DOE that further testing revealed that the Urano Header, Urano BT Header, Urano 2500, Urano 1650, and Urano 2100 models manufactured on or after March 27, 2017, were not in compliance with the applicable energy conservation standards.

FINDINGS

Based on the facts stated above, DOE finds (and Arneg concedes), after applying the calculations in 10 C.F.R. Part 429, Subpart C, Appendix B, that the basic models including individual models Urano Header, Urano BT Header, Urano 2500, Urano 1650, Urano 2100, and the basic models including all individual models under the Gander model line (collectively, "the basic models")

² Under 10 C.F.R. § 431.66(e)(1), the maximum energy use, in kWh/day, of a horizontal, medium-temperature commercial freezer with a self-contained condensing unit designed for holding temperature applications and transparent doors, manufactured on or after September 15, 2014, may not exceed 1.23 plus the product of 0.08 and the frozen compartment volume (1.23 + 0.08V).

³ Under 10 C.F.R. § 431.66(e)(1), the maximum energy use, in kWh/day, of a horizontal ice-cream freezer with a self-contained condensing unit designed for holding temperature applications and transparent doors, manufactured on or after September 15, 2014, may not exceed 0.43 plus the product of 0.56 and the total display area of the case (0.43 + 0.53TDA).

⁴ Under 10 C.F.R. § 431.66(e)(1), the maximum energy use, in kWh/day, of a horizontal, medium-temperature commercial refrigerator with a self-contained condensing unit designed for holding temperature applications and transparent doors may not exceed 0.37 plus the product of 0.06 and the chilled compartment volume (0.37 + 0.06V).

do not comply with the applicable federal energy conservation standards for commercial refrigerators, commercial freezers, and commercial ice-cream freezers.⁵

NOTICE

Distribution in commerce of covered equipment that does not meet energy conservation standards is a violation subject to civil penalty, regardless of the issuance of this Notice. If Arneg 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 ARNEG

In light of the above findings, Arneg 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 Arneg 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 Arneg's inventory that were manufactured (including importation) on or after September 19, 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 ARNEG

In addition to the mandatory steps listed above that Arneg must complete, Arneg 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 DOE 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. In addition, Arneg 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, Arneg must provide to DOE test data demonstrating that the modified basic model complies with the applicable standards.⁶ All units must be tested in accordance with DOE regulations, and Arneg shall bear the costs of all such testing that is conducted.

⁵ 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. § 431.62.

⁶ 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 Arneg to resume the distribution of the modified basic model in the United States.

CONSEQUENCES FOR CONTINUING TO DISTRIBUTE THE BASIC MODEL

Should Arneg 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, Arneg provides DOE with a satisfactory statement within that 30-day period detailing the steps that Arneg 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.

Dion Casey
Trial Attorney
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Phone: 240-798-1204

Certificate of Service

This is to certify that on September 19, 2022, the undersigned served the designated copy of the Notice of Noncompliance Determination issued in DOE Case Numbers 2018-SE-42016 and 2018-CE-42010 on the party listed below in the manner indicated.

Arneg LLC
c/o John Hodges
Harris, Wiltshire & Grannis, LLP
jhodges@hwglaw.com

PDF
Email

Dion Casey
Trial Attorney