

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

In the Matter of:	)	
	)	
<b>Ritemp Refrigeration, Inc.</b>	)	Case Number: 2016-CE-53014
(walk-in coolers and freezers)	)	
	)	

**NOTICE OF PROPOSED CIVIL PENALTY**

Date issued:	June 6, 2016
Number of alleged violations:	365 (one basic model, 365 days total)
Maximum possible assessment:	<b>\$ 73,000</b>
Proposed civil penalty:	<b>\$ 18,250</b>

The U.S. Department of Energy (“DOE”) Office of the General Counsel, Office of Enforcement, alleges that Ritemp Refrigeration, Inc. (“Ritemp Refrigeration”) has violated certain provisions of the Energy Policy and Conservation Act, 42 U.S.C. § 6291 *et seq.* (“the Act”), and 10 C.F.R. § 429.12.

Specifically, DOE alleges:

1. Ritemp Refrigeration has manufactured<sup>1</sup> a variety of walk-in cooler or freezer (WICF) components.
2. Ritemp Refrigeration has distributed for at least 365 days, and continues to distribute, WICF components in commerce in the U.S.
3. WICF components are “covered equipment” as defined in 10 C.F.R. § 430.2.
4. Ritemp Refrigeration has failed to submit a certification report certifying that the WICF components they manufacture, including at least one basic model of WICF door, meet the applicable energy conservation standards before distribution of the basic model in commerce in the U.S., as required pursuant to 10 C.F.R. §§ 429.12 and 429.53.

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<sup>1</sup> “Manufacture” means to manufacture, produce, assemble, or import. 42 U.S.C. § 6291(10).

Failure to submit a certification report for each basic model of a covered product 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.

**The following information is provided in question and answer format to help explain Ritemp Refrigeration's legal obligations and options.**

*What do I do now?*

DOE is offering to settle this enforcement action. To accept this settlement offer, you must submit the signed Compromise Agreement and then pay the fine within thirty (30) days of the date of an Adopting Order adopting the Compromise Agreement.

If you do not choose to settle the case, DOE may seek the maximum penalty authorized by law. You have other options as described below.

*What are my other options?*

If you do **not** agree to DOE's settlement offer, then you must select Option 1 or Option 2 below within thirty (30) calendar days of the date of this Notice.

Option 1: You may elect to have DOE issue an order assessing a civil penalty. Failure to pay the assessed penalty within sixty (60) calendar days of the order assessing such penalty will result in referral of the case to a U.S. District Court for an order affirming the assessment of the civil penalty. The District Court has the authority to review the law and the facts de novo.

Option 2: You may elect to have DOE refer this matter to an Administrative Law Judge (ALJ) for an agency hearing on the record. Upon a finding of violation by the ALJ, DOE will issue an order assessing a civil penalty. This order may be appealed to the appropriate U.S. Court of Appeals.

*When must I respond?*

You must submit a signed compromise agreement within thirty (30) calendar days of the date of this notice to pay the amount indicated in the Compromise Agreement. If you do not wish to settle AND you wish to choose Option 1 as described above, you must notify DOE within thirty (30) calendar days of the date you received this notice of your selection of Option 1. Otherwise, if you do not settle the case, DOE will refer to the case to an ALJ as described in Option 2.

*How should I submit my response?*

To assure timely receipt, DOE strongly encourages you to submit your response by e-mail, fax, or an express delivery service. DOE accepts scanned images of signed documents (such as PDFs). Responses may be sent by any of the following methods:

By email to: ronald.colwell@hq.doe.gov

By fax to: (202) 586-3274

By mail to: Ronald J. Colwell  
U.S. Department of Energy  
Office of the General Counsel (GC-32)

1000 Independence Ave., SW  
Washington, DC 20585

*What happens if I fail to respond?*

If you fail to respond within thirty (30) calendar days after receiving this notice, or by the time of any extension granted by DOE, DOE will refer the case to an ALJ for a full administrative hearing (Option 2, above).

*What should I include in my response?*

- 1) If you wish to accept DOE's settlement offer, you should submit the signed compromise agreement. If you do not wish to accept DOE's settlement offer, you should specify if you wish to elect Option 1; otherwise, DOE will proceed with Option 2, as described above.
- 2) Provide your Taxpayer Identification Number ("TIN"). The Debt Collection Improvement Act requires all Federal agencies to obtain the TIN in any case which may give rise to a debt to the government.

*How did you calculate the maximum possible assessment?*

Federal law sets a maximum civil penalty for each day you fail to submit to DOE the required information for a covered product. By regulation, you must submit a certification report for each basic model. Therefore, your maximum penalty is calculated based on each day you distributed each basic model in commerce in the U.S. without having submitted a valid certification report. The maximum penalty is \$200 per basic model per day. 10 C.F.R. § 429.120.

Issued by:

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/S/

Laura L. Barhydt  
Assistant General Counsel for  
Enforcement