

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

In the Matter of: )

**Bigwall Enterprises, Inc.,** )  
(freezers) )

Case Number: 2013-SE-1412

Issued: April 10, 2013

**NOTICE OF NONCOMPLIANCE DETERMINATION**

Manufacturers and private labelers are prohibited from distributing covered products in the United States that do not comply with applicable federal energy conservation standards. 10 C.F.R. § 429.102; 42 U.S.C. § 6302. Bigwall Enterprises, Inc. (“Bigwall”) is a private labeler and owns the “Wellington” trademark, which Bigwall uses to distribute refrigerators, freezers, and refrigerator-freezers in the U.S.

DOE completed testing in accordance with DOE test procedures (10 C.F.R. Part 430, Subpart B, Appendix B1) of four units of [REDACTED] basic model [REDACTED], manufactured in [REDACTED] and distributed in the United States by a third-party private labeler. [REDACTED] is privately labeled and distributed in the United States by Bigwall as model W1CF106 under the Wellington brand (“the Wellington W1CF106”).

None of the tested units of basic model [REDACTED] was capable of meeting the energy efficiency standard set forth in 10 C.F.R. § 430.32(a). Furthermore, in a Compromise Agreement executed on April 10, 2013, Bigwall admitted that the Wellington W1CF106 does not comply with the applicable federal energy conservation standard.

**FINDING**

Based on the facts stated above, DOE has determined that the Wellington W1CF106 does not comply with the applicable federal energy conservation standard.

**MANDATORY ACTIONS BY BIGWALL**

In light of the above finding, Bigwall 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, regardless of label, of the Wellington W1CF106;

(2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Bigwall has distributed units, regardless of label, of the Wellington W1CF106 in the past three years;

(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 Bigwall notified; and

The response required by paragraph (3) must be dated, signed, and notarized, and must include a declaration under penalty of perjury that the contents of the responses are true. Specifically, the person signing the response must attest the following: "I declare under penalty of perjury that the statements contained in this response are true, correct, and complete."

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 BY BIGWALL

In addition to the mandatory steps listed above that Bigwall must complete, Bigwall may elect to modify the Wellington W1CF106 to bring it into compliance with the applicable standard. The 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. Prior to distribution in commerce in the United States, Bigwall 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 Bigwall 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 shall issue a Notice of Allowance to permit Bigwall to resume the distribution of the modified basic model in the United States. Until DOE determines that the modified basic model complies with the applicable standard, no units of the basic model may be sold or otherwise distributed by Bigwall in the United States.

#### CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

Should Bigwall fail to cease immediately the distribution in the United States of all units, regardless of label, of the Wellington W1CF106, this letter serves as notice that DOE will seek a judicial order within 30 calendar days to restrain further distribution. If, however, Bigwall provides DOE with a satisfactory statement within that 30-day period detailing the steps that Bigwall 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