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

In the Matter of:	)	
	)	
Crane Merchandising Systems, Inc.	)	Case Number: 2016-CE-52001
Respondent	)	
	)	

ORDER

By the General Counsel, U.S. Department of Energy:

1. In this Order, I adopt the attached Compromise Agreement entered into by the U.S. Department of Energy ("DOE") and Crane Merchandising Systems, Inc. ("Respondent"). The Compromise Agreement resolves the case initiated to pursue a civil penalty for violations of the compliance certification requirements located at 10 C.F.R. Part 429.

2. DOE and Respondent have negotiated the terms of the Compromise Agreement that resolves this matter. A copy of the Compromise Agreement is attached hereto and incorporated by reference.

3. After reviewing the terms of the Compromise Agreement and evaluating the facts before me, I find that the public interest would be served by adopting the Compromise Agreement, which would complete the adjudication of the case.

4. Based on the information in the case file and Respondent's admission of facts establishing violations, I find that Respondent committed Prohibited Acts by failing to comply with 10 C.F.R. § 429.12. *See* 10 C.F.R. § 429.102(a)(1); 42 U.S.C. § 6302.

5. Accordingly, pursuant to 10 C.F.R. § 429.120 and 42 U.S.C. § 6303, **I HEREBY ASSESS** a civil penalty of $16,000 **AND ORDER** that the Compromise Agreement attached to this Order is adopted.

__/S/_________________________
Steven P. Croley
General Counsel

___3/16/16___________________
Date

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

In the Matter of:	)	
	)	
Crane Merchandising Systems, Inc.	)	Case Number: 2016-CE-52001
Respondent	)	
	)	

COMPROMISE AGREEMENT

The U.S. Department of Energy ("DOE") Office of the General Counsel, Office of Enforcement, initiated this action against Crane Merchandising Systems, Inc. ("Crane")[1] pursuant to 10 C.F.R. § 429.122 by Notice of Proposed Civil Penalty, alleging that Respondent had failed to submit a certification report for various basic models of refrigerated bottled or canned beverage vending machines. Respondent and DOE, by their authorized representatives, hereby enter into this Compromise Agreement for the purpose of settling this specific enforcement action.

I. DEFINITIONS

For the purposes of this Compromise Agreement, the following definitions apply:

(a) "Act" means the Energy Policy and Conservation Act of 1975, as amended, 42 U.S.C. § 6291 *et seq.*

(b) "Adopting Order" means an Order of the General Counsel adopting the terms of this Compromise Agreement without change, addition, deletion, or modification.

(c) "Distribute in commerce" or "distribution in commerce" means 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.

(d) "DOE" means the U.S. Department of Energy.

(e) "DOE Rules" means DOE's energy conservation regulations found in Title 10, Parts 429, 430, and 431 of the Code of Federal Regulations.

(f) "Manufacture" means to manufacture, produce, assemble, or import.

(g) "Notice" means the Notice of Proposed Civil Penalty issued by DOE to Respondent on January 21, 2016, and captioned as case number 2016-CE-52001.

(h) "Parties" means DOE and Respondent.

[1] DOE issued the Notice of Proposed Civil Penalty under Case Number 2016-CE-52001 to Crane Merchandising Systems on January 21, 2016. On February 26, 2016 and February 29, 2016 Crane Co.'s Deputy General Counsel represented to DOE that Crane Merchandising Systems, Inc. is the "only entity in the entire Crane organization that manufactures and sells vending machines in the United States." Based on this information, DOE modified the respondent name under Case Number 2016-CE-52001 to Crane Merchandising Systems, Inc.

(i) "Respondent" means Crane Merchandising Systems, Inc.

The Agreement further incorporates by reference all of the definitions found within 42 U.S.C. §§ 6291 and 6311 and 10 C.F.R. Parts 429, 430, and 431.

II. RECITALS

WHEREAS, pursuant to 42 U.S.C. § 6291 *et seq*. DOE is responsible for promulgating and enforcing the energy conservation requirements set forth in DOE Rules; and

WHEREAS, DOE has promulgated energy conservation standards for refrigerated bottled or canned beverage vending machines at 10 C.F.R. § 431.296 and requires manufacturers to submit information and reports to ensure compliance with those standards pursuant to 10 C.F.R. §§ 429.12 and 429.52; and

WHEREAS, pursuant to 42 U.S.C. § 6316 and 10 C.F.R. §§ 429.102 and 429.120, DOE is authorized to assess civil monetary penalties for actions prohibited by the Act, including knowingly failing to make reports or provide other required information; and

WHEREAS, on January 21, 2016, DOE initiated an action to assess a civil penalty for failing to certify compliance and submit a certification report for certain basic models; and

WHEREAS, Respondent admits:

1. Respondent has manufactured, distributed in commerce, and continues to distribute in commerce refrigerated bottled or canned beverage vending machines, including units of Narrow BevMax 4 model 3800-4, DNCB model 640-10, DNCB model 448-7, and BevMax 4 model 5800-4;
2. Narrow BevMax 4 model 3800-4, DNCB model 640-10, DNCB model 448-7, and BevMax 4 model 5800-4 have been in distribution in commerce in the United States for at least 365 days;
3. These basic models are "covered equipment"; and
4. As of January 21, 2016, Respondent had failed to submit the required certification reports for these basic models.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements set forth below, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree as follows:

III. TERMS OF THE AGREEMENT

1. **Adopting Order.** The Parties agree that the provisions of this Compromise Agreement shall be subject to final approval by the General Counsel by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.
2. **Obligations of Respondent.**
    a. If this Compromise Agreement is executed by February 25, 2016, Respondent agrees to pay the sum of $8,000, as full satisfaction of the civil penalty proposed in the Notice, within thirty (30) calendar days of the issuance of the Adopting Order. If this Compromise Agreement is executed between February 25, 2016 and sixty (60) calendar days after the date of the Notice, Respondent agrees to pay the sum of

$16,000 as full satisfaction of the civil penalty proposed in the Notice, within thirty (30) calendar days of the issuance of the Adopting Order.

b. Within sixty (60) calendar days following the issuance of the Adopting Order, Respondent will, in accordance with 10 C.F.R. Part 429, certify all basic models of all covered products and covered equipment that Respondent manufactures and distributes in commerce in the United States.

3. **Obligations of DOE.**

a. In express reliance on the covenants and representations in this Compromise Agreement and to avoid further expenditure of public resources, DOE agrees to accept Respondent's payment pursuant to section III.2.a in full satisfaction of the penalty authorized by the Act.

b. DOE agrees to issue promptly an Adopting Order adopting this Agreement.

c. DOE agrees to terminate this enforcement action with prejudice upon Respondent's completion of its Obligations in accordance with section III.2, above. If Respondent fails to complete its Obligations in accordance with section III.2, above, DOE may notify Respondent that the Agreement is null and void and may seek the maximum penalty in accordance with 10 C.F.R. § 429.120.

4. **Jurisdiction.** This Compromise Agreement is entered into pursuant to DOE's authority to interpret and enforce its rules for energy efficiency and to enter into its own agreements interpreting and applying those rules. The Parties agree that DOE has jurisdiction over Respondent and primary jurisdiction over the matters contained in this Compromise Agreement and has the authority to enter into this Compromise Agreement.

5. **Effective Date.** The Parties agree that this Compromise Agreement shall become effective on the date on which the General Counsel issues the Adopting Order. As of that date, the Adopting Order and this Compromise Agreement shall have the same force and effect as any other Order of the General Counsel. Any violation of the Adopting Order or of the terms of this Compromise Agreement shall constitute a separate violation of an Agency Order, entitling DOE to exercise any rights and remedies attendant to the enforcement of an Agency Order.

6. **Payment Instructions and Late Payments.** The Parties agree that all payments shall be made in a timely manner and in a method set forth in the attached "Payment Instructions." Respondent acknowledges and agrees to comply with the "Late Payment" provisions provided therein.

7. **Limitations.** Nothing in this agreement binds any other agency of the United States government beyond DOE.

8. **Waivers.** Respondent agrees not to seek judicial review or otherwise contest or challenge the validity of the terms and penalties set out in this Compromise Agreement or the Notice associated with this case. If either Party (or the United States on behalf of DOE) brings a judicial action to enforce the terms of this Compromise Agreement, neither Respondent nor DOE shall contest the validity of the Compromise Agreement, and Respondent waives any statutory right to a trial *de novo*. Respondent hereby agrees to waive any claims it may

otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504, relating to the matters addressed in this Compromise Agreement.

9. **Final Settlement.** The Parties agree and acknowledge that this Compromise Agreement constitutes a final settlement between the Parties. This Compromise Agreement resolves only issues addressed in the Compromise Agreement.

10. **Merger.** This Compromise Agreement constitutes the entire agreement between the Parties and supersedes all previous understandings and agreements between the Parties, whether oral or written.

11. **Modifications.** This Compromise Agreement cannot be modified without the advance written consent of both Parties.

12. **Severability.** If any provision of this agreement is held to be invalid, illegal, void, or unenforceable, then that provision is to be construed by modifying it to the minimum extent necessary to make it enforceable.

13. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Compromise Agreement.

14. **Counterparts.** This Compromise Agreement may be signed in any number of counterparts (including by facsimile or electronic mail), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

__/S/____________________________
Laura L. Barhydt
Assistant General Counsel for
Enforcement
U.S. Department of Energy

___March 15, 2016________________
Date

__/S/____________________________
(Signature)
Typed Name: __Stephen Turner___
Title: _Vice President, GM___
Company Name: Crane Merchandising Systems

___3/14/2016_____________________
Date