

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

In the Matter of:

W. Appliance Company LLC
(miscellaneous refrigeration products)

Case Number: 2023-CE-61009

ORDER

For the U.S. Department of Energy (“DOE”):

1. On May 19, 2023, under the above-listed case number, DOE initiated a case against W. Appliance Company LLC (“Respondent”) to pursue a civil penalty against Respondent for knowingly distributing in commerce in the United States basic models of miscellaneous refrigeration products without submitting to DOE a certification report certifying that those basic models complied with the applicable energy conservation standards.
2. Miscellaneous refrigeration products are covered products pursuant to 42 U.S.C. § 6292(a)(20) and 10 C.F.R. § 430.2 subject to the energy conservation standards at 10 C.F.R. § 430.32(aa).
3. Pursuant to 10 C.F.R. § 429.12, manufacturers are required to submit to DOE a certification report certifying that each basic model of a covered product meets the applicable energy conservation standard, before distributing each basic model in commerce in the United States and annually thereafter.
4. Failure to submit a certification report for a covered product in accordance with 10 C.F.R. § 429.12 is a prohibited act pursuant to 10 C.F.R. § 429.102(a)(1) and subject to civil penalties as described in 10 C.F.R. § 429.120.
5. Pursuant to 10 C.F.R. § 429.120, each day that a manufacturer fails to submit a certification report for a basic model is a separate violation.
6. Respondent admitted the following:
 - a. Respondent has manufactured¹ miscellaneous refrigeration products, including the following basic models in Respondent’s Black & Decker line: CW-20H (individual model BD60016), JC-23SCPX (individual model BD60326), JC-46-E

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

(individual model BD61516), JC-75UEX-F (individual model BD61526), JC-90-E (individual model BD61536), CW-25H (individual model BD60026), JC-16CPX (individual model BD60316), and JC-33CPX (individual model BD60336) (“the basic models”).

- b. Respondent has distributed in commerce² in the United States for at least 365 days, and continue to distribute, the basic models.
 - c. Respondent submitted a certification report for three of the basic models in 2020 and two of the basic models in 2021 but knowingly failed to submit a certification report for the basic models annually thereafter, in violation of 10 C.F.R. § 429.12.
7. Based on the information above, I find that Respondent knowingly committed Prohibited Acts by manufacturing and distributing in commerce basic models of a covered product without submitting to DOE a certification report certifying that those basic models complied with the applicable energy conservation standards. *See* 42 U.S.C. § 6302; 10 C.F.R. §§ 429.102(a)(1).
8. Accordingly, pursuant to 10 C.F.R. § 429.120 and 42 U.S.C. §§ 6303 and 6316, I **HEREBY ASSESS** a civil penalty of \$20,000 (twenty thousand dollars) **AND ORDER** that the Settlement Agreement attached to this Order is adopted.

Samuel T. Walsh
General Counsel

² “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. 42 U.S.C. § 6291(16).