

**United States Department of Energy  
Office of Hearings and Appeals**

In the Matter of: )  
 )  
SR Sunrise Sanitary, Inc. )  
 )  
Filing Date: January 8, 2024 ) Case No.: EEE-24-0006  
 )  
 )  
\_\_\_\_\_ )

**Issued: May 6, 2024**

**Initial Decision  
Motion for Decision**

Steven L. Fine, Administrative Law Judge:

This Initial Decision considers a Motion for Decision (MFD) filed on March 28, 2024, by the Department of Energy’s (DOE) Office of the Assistant General Counsel for Enforcement (OGCE) concerning a complaint (Complaint) filed by OGCE on January 8, 2024, against SR Sunrise Sanitary, Inc. (Respondent). The Complaint was filed under the Energy Policy and Conservation Act, 42 U.S.C. § 6291 *et seq.* (the EPCA), DOE’s implementing regulations codified at 10 C.F.R. Parts 429 and 430, and DOE’s Procedures for Administrative Adjudication of Civil Penalty Actions (hereinafter referred to as the AACPA).<sup>1</sup> The Complaint alleges that Respondent violated the provisions of the EPCA and its implementing regulations by distributing three covered products, specifically three models of showerheads<sup>2</sup> (the Showerheads), in commerce in the United States without first submitting reports to DOE certifying that each of the Showerheads complied with the applicable DOE energy conservation standard, as required by 10 C.F.R. § 429.12(a)–(d) and 10 C.F.R. § 429.102(a)(1).<sup>3</sup> The MFD requests that I issue a decision: (1) deeming the allegations set forth in the Complaint as admitted, (2) finding that Respondent violated the EPCA and its implementing regulations, and (3) recommending that Respondent pay a civil penalty in the amount of \$593,490. For the reasons set forth below, I am granting OGCE’s motion.

**I. Background**

---

<sup>1</sup> The AACPA may be viewed at: <https://www.energy.gov/gc/doe-procedures-administrative-adjudication-civil-penalty-actions>.

<sup>2</sup> DOE’s implementing regulations define a showerhead as “a component or set of components distributed in commerce for attachment to a single supply fitting, for spraying water onto a bather, typically from an overhead position, excluding safety shower showerheads.” 10 C.F.R § 430.2. A “[s]afety shower showerhead” is further defined as “a showerhead designed to meet the requirements of ISEA Z358.1.” 10 C.F.R. § 430.2.

<sup>3</sup> The Complaint identifies the Showerheads as “SRSH-SBN2, SRSH-BC1603, and SRSH-ORB1203.” Complaint at 4.

On November 9, 2023, OGCE issued a Notice of Proposed Civil Penalty (NPCP) to Respondent, pursuant to 10 C.F.R. § 429.122. MFD Exhibit 1 (Ex. 1) at 1. The NPCP alleged that Respondent had manufactured and distributed the Showerheads in commerce in the United States after it had knowingly failed to submit mandatory certification reports to DOE certifying that the Showerheads met the applicable energy conservation standards set forth at 10 C.F.R. § 430.32(p) and 42 U.S.C. § 6295(j).<sup>4</sup> Ex. 1 at 2. The NPCP proposed a civil penalty of \$593,490. Ex. 1 at 1. 10 C.F.R. § 429.122(b)(3) provides that a NPCP must inform its recipient of the opportunity to either elect to have the DOE’s General Counsel issue an order assessing the civil penalty proposed in the NPCP or to request an administrative hearing before an Administrative Law Judge (ALJ). 10 C.F.R. § 429.124(a)(1). If the NPCP recipient fails to respond within thirty days, the regulations instruct DOE to refer the civil penalty action to an ALJ for a hearing. 10 C.F.R. § 429.124(c). The Respondent failed to respond to the NPCP within the required thirty days. Ex. 1 at 6.

On January 8, 2024, OGCE referred this case to an Administrative Law Judge (ALJ) by filing a Complaint with DOE’s Office of Hearings and Appeals (OHA) and serving Respondent with a copy of the Complaint. MFD Ex. 7 at 7. I was appointed as the ALJ on that day. The Complaint alleged that Respondent violated 10 C.F.R. § 429.102(a)(1), when it knowingly failed to submit the certification reports required under 10 C.F.R. § 429.12(a) to the DOE certifying that the Showerheads met the applicable energy conservation standard, set forth at 10 C.F.R. § 430.32(p) and 42 U.S.C. § 6295(j), prior to manufacturing and distributing the Showerheads in commerce in the United States by making them available for sale in the United States on amazon.com. Ex. 7 at 4–5.

On January 12, 2024, I issued an acknowledgement letter in which I reminded the parties that Respondent’s answer, or motion filed pursuant to § 18(f)(1)–(2) of the AACPA, was due by February 8, 2024, under § 8(a) of the AACPA. Ex. 18 at 2. On February 7, 2024, Respondent filed a Motion for an Extension of Time to Answer Complaint. Ex. 9 at 1. I granted Respondent’s motion on February 7, 2024, and extended Respondent’s deadline for filing its answer or motion pursuant to § 18(f)(1)–(2) to March 8, 2024. Ex. 10 at 1. Respondent failed to file an answer or motion pursuant to § 18(f)(1)–(2) by the deadline, and on March 28, 2024, OGCE filed the present motion.<sup>5</sup> MFD at 8–9. The deadline for Respondent’s response to the MFD elapsed on April 22, 2024, without any response from Respondent. *See* AACPA at § 18(d) (providing 25 days for a response to a motion filed under § 18 of the AACPA).

## II. Analysis

Under the AACPA, a respondent is required to file either a written answer to the complaint, or a motion pursuant to § 18(f)(1)–(2), “not later than 30 days after service of the complaint.” AACPA

---

<sup>4</sup> The EPCA defines “[e]nergy conservation standard” as “a performance standard which prescribes a minimum level of energy efficiency or a maximum quantity of energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use, for a covered product.” 42 U.S.C. § 6291(6)(A).

<sup>5</sup> On April 12, 2024, Respondent’s counsel filed a motion to withdraw his appearance, which I granted on April 18, 2024.

at § 8(a). Respondent failed to comply with this requirement, even after it had requested and received an extension of time in which to file its response to the Complaint. The AACPA further provides that “[a] person’s failure to timely file an answer . . . will be deemed an admission of the truth of each allegation contained in the complaint.” AACPA at § 8(d).

OGCE requests that I invoke § 8(d) and consider Respondent’s failure to file either a written answer to the Complaint, or a motion pursuant to § 18(f)(1)–(2), an admission of the truth of each allegation contained in the Complaint. The MFD further requests that on the basis of those admissions, I issue a decision: (1) finding that Respondent violated the EPCA and its implementing regulations, and (2) recommending that Respondent pay a civil penalty of \$ 593,490. To this end, OGCE asserts that since each of the allegations set forth in the Complaint has been admitted, there remains no genuine issue of material fact and therefore OGCE is entitled to a decision in its favor as a matter of law. In support of this contention, OGCE cites the AACPA, which provides that an ALJ must grant an MFD if the moving party “show[s] that there is no genuine issue of material fact and that the party making the motion is entitled to a decision as a matter of law.” AACPA at § 18(f)(5).

Under the AACPA, Respondent’s failure to file a timely response to the Complaint serves as an admission that each of the Complaint’s allegations are true, unless good cause is shown for the failure to respond. AACPA at § 8(d). Respondent has not contended good cause exists for its failure to respond, and the existing record does not support such a conclusion. Accordingly, I find that each of the allegations set forth in the Complaint is admitted to be true.

Therefore, I have made the following findings of fact and conclusions of law:

1. Respondent is a “person” under 10 C.F.R. § 430.2;<sup>6</sup>
2. Each of the Showerheads are “showerheads” as defined by 10 C.F.R § 430.2;
3. Each of the Showerheads are “covered products.” 42 U.S.C. § 6292(a)(15);
4. The Showerheads are therefore subject to the conservation standards set forth at 10 C.F.R. § 430.32(p) and 42 U.S.C. § 6295(j);
5. Respondent “manufactured, produced, assembled, or imported” the Showerheads, and was therefore the “manufacturer” of the Showerheads. 42 U.S.C. § 6291(10) and 6291(12); 10 C.F.R. § 430.2;
6. For at least 365 days, Respondent knowingly distributed the Showerheads in commerce in the United States by making each of the Showerheads available for sale in the United States on amazon.com since at least February 14, 2019;

---

<sup>6</sup> A “person” is “any individual, corporation, company, association, firm, partnership, society, trust, joint venture or joint stock company, the government, and any agency of the United States or any State or political subdivision thereof.” 10 C.F.R. § 430.2; *accord* 42 U.S.C. § 6202(2).

7. Pursuant to 10 C.F.R. § 429.12(a), Respondent was required to submit a certification report to DOE certifying that each of the Showerheads complied with the applicable DOE energy conservation standards, both before distributing the Showerheads, and annually thereafter;
8. Respondent did not file certification reports certifying that the basic models containing each of the Showerheads complied with the relevant energy conservation standard to DOE until November 2, 2023;<sup>7</sup>
9. Respondent has been, at all times relevant to the present proceeding, subject to the requirements of 10 C.F.R. Parts 429 and 430 and the remedies of 10 C.F.R. Part 429, Subpart C;
10. Respondent knew or should have known that it had not submitted any certification reports to DOE certifying that each of the Showerheads met the applicable energy conservation standards before Respondent distributed the Showerheads in commerce in the United States;
11. Respondent violated 10 C.F.R. § 429.102(a)(1) by knowingly distributing the Showerheads in commerce in the United States for at least 365 days before it submitted the certification reports required under 10 C.F.R. § 429.12(a) to DOE certifying that the basic models containing the Showerheads met the applicable energy conservation standards;
12. Pursuant to 10 C.F.R. § 429.120, Respondent is subject to a civil penalty for each knowing violation of 10 C.F.R. § 429.102(a)(1);
13. Under 10 C.F.R. § 429.120, each day of noncompliance with 10 C.F.R. § 429.102(a)(1) constitutes a separate violation for each model not certified according to DOE regulations;
14. Respondent has committed 1,095 knowing violations of 10 C.F.R. § 429.102(a)(1) (three products multiplied by 365 days);
15. Pursuant to Inflation Adjustment of Civil Monetary Penalties (the IACMP), 88 Fed. Reg. 2193 (Jan. 13, 2023); 10 C.F.R. § 429.120 (2023); and 28 U.S.C. § 2461 (amended 2015) Respondent is subject to a civil penalty of up to \$542 per basic model per day for each violation assessed after January 13, 2023;

---

<sup>7</sup> The regulations define “basic model” as “all units of a given type of covered product (or class thereof) manufactured by one manufacturer; having the same primary energy source; and, which have essentially identical electrical, physical, and functional (or hydraulic) characteristics that affect energy consumption, energy efficiency, water consumption, or water efficiency;” . . . and “[w]ith respect to faucets and showerheads: Have the identical flow control mechanism attached to or installed within the fixture fittings, or the identical water-passage design features that use the same path of water in the highest flow mode.” 10 C.F.R. § 430.2.

16. A maximum civil penalty in the amount of \$593,490 (three products multiplied by 365 days multiplied by a penalty of \$542 per violation) would be allowed under the regulations and statutes;
17. A civil penalty in the amount of \$593,490 is therefore appropriate.

Based on the existing record, OGCE has shown there is no genuine issue of material fact and it is entitled to a decision as a matter of law. Accordingly, OGCE's MFD is granted. I recommend an assessment of a civil penalty in the amount of \$593,490 against Respondent.

For These Reasons:

- (1) The Motion for Decision filed by the Office of the Assistant General Counsel for Enforcement on March 28, 2024, is granted;
- (2) I recommend that SR Sunrise Sanitary, Inc. be assessed a civil penalty of \$593,490, as requested by the Office of the Assistant General Counsel for Enforcement; and
- (3) This Initial Decision shall become the Final Decision of the Department of Energy if not appealed pursuant to § 32 of DOE's Procedures for Administrative Adjudication of Civil Penalty Actions within 10 days after service upon the parties.

Steven L. Fine  
Administrative Law Judge  
Office of Hearings and Appeals  
United States Department of Energy