

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

In the Matter of: )  
 )  
**Morris Products, Inc.** ) Case Number: 2013-SE-5403  
(metal halide lamp fixtures) )  
 )

**NOTICE OF PROPOSED CIVIL PENALTY**

Date issued: June 19, 2015

Number of alleged violations: 1,067  
Maximum possible assessment: **\$213,400**  
Proposed civil penalty: **\$213,400**

The U.S. Department of Energy (“DOE”) Office of the General Counsel, Office of Enforcement, alleges Morris Products, Inc. (“Morris”) 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. Parts 429 and 431.

**Legal Requirements**

Metal halide lamp fixtures are covered products subject to energy conservation standards set forth in 42 U.S.C. § 6295(hh). 42 U.S.C. §§ 6292(a)(19), 6291(64); 10 C.F.R. § 431.326.

Effective January 1, 2009, metal halide lamp fixtures designed to operate with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts that are manufactured and distributed in commerce in the United States and contain a magnetic probe-start ballast must have a minimum ballast efficiency of 94%. 10 C.F.R. § 431.326(a)(2).

Manufacturers and private labelers are prohibited from distributing in commerce any product that fails to comply with these standards. 42 U.S.C. § 6302(a)(5); 10 C.F.R. § 429.102(a)(6).

## Allegations

DOE alleges:

1. Morris has manufactured<sup>1</sup> and distributed in commerce in the United States metal halide lamp fixture models<sup>2</sup> 71069, 71096, 71042, 71072, 71076, 71052, and 71036, containing probe-start metal halide ballasts.
2. As DOE found in a Notice of Noncompliance Determination issued on August 29, 2013, these Morris metal halide lamp fixture models do not comply with the applicable energy conservation standard.
3. Beginning January 1, 2011, Morris distributed in commerce in the United States at least the following quantities of units of each corresponding model, which did not meet the applicable energy conservation standard:

<b>Model</b>	<b>Quantity Distributed in U.S. Commerce 2011–2013</b>
71069	147
71096	64
71042	174
71072	68
71076	131
71052	262
71036	221

**The following information is provided in question and answer format to help explain Morris’s legal obligations and options.**

*What do I do now?*

DOE is offering to settle this enforcement action if you submit the signed Compromise Agreement within thirty (30) calendar days of the date of this Notice and then fulfill all obligations of the Compromise Agreement, which includes paying the fine within thirty (30) calendar days of the date of an Order adopting the Compromise Agreement.

If you do not choose to settle the case, DOE may seek the maximum penalty authorized by law (currently \$213,400). You have other options as described below.

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

<sup>2</sup> Some models, such as 71042 and 71052, had both pulse-start and probe-start versions. This Notice applies only to the probe-start versions.

*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 the signed Compromise Agreement within thirty (30) calendar days of the date of this Notice to pay the lowest penalty. If you do not wish to settle AND you wish to choose Option 1 as described above, you must notify DOE of your selection of Option 1 within thirty (30) calendar days of the date of this Notice. Otherwise, if you do not settle the case, DOE will refer 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). You may respond by any of the following methods:

By email to: christina.studt@hq.doe.gov  
By fax to: (202) 586-3274  
By private carrier to: Christina Studt  
Trial Attorney (GC-32)  
U.S. Department of Energy  
1000 Independence Ave., SW  
Washington, DC 20585

*What happens if I fail to respond?*

If you fail to respond within thirty (30) calendar days of the date of 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 (“DCIA”) requires all federal agencies to obtain the TIN in any case that may give rise to a debt to the government.

*How did DOE calculate the maximum possible assessment?*

Federal law sets a maximum civil penalty for each unit of a covered product that does not meet an applicable energy or water conservation standard that is distributed in commerce in the U.S. The maximum penalty is \$200 per unit. 10 C.F.R. § 429.120. DOE has calculated a maximum penalty of \$200 per unit for 1,067 units distributed in commerce in the United States. DOE is not pursuing potential violations in 2010 at this time. If the case goes to hearing, this number would be adjusted to include violations before 2011, and any additional information obtained.

If you have any questions, please contact Christina Studt by email at [christina.studt@hq.doe.gov](mailto:christina.studt@hq.doe.gov) or phone at (202) 586-0389.

Issued by:

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