# 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)	)	
	)	

Issued: August 29, 2013

## NOTICE OF NONCOMPLIANCE DETERMINATION

Metal halide lamp fixtures are covered products subject to federal energy conservation standards as described in 42 U.S.C. §§ 6292(a)(19), 6295(hh) and 10 C.F.R. § 431.326. Manufacturers and private labelers are prohibited from distributing covered products or equipment that do not comply with the applicable conservation standards. 10 C.F.R. § 429.102(a)(6); 42 U.S.C. § 6302(a)(5). Specifically, metal halide lamp fixtures manufactured on or after January 1, 2009, and distributed in commerce in the United States with magnetic probe-start ballasts must have a minimum ballast efficiency of 94%. 10 C.F.R. § 431.326(a)(2).

Information available to the U.S. Department of Energy ("DOE"), including the August 8, 2013 supplemental response provided by Morris Products, Inc. ("Morris") to a Request for Information, indicates that Morris had manufactured and distributed in commerce the metal halide lamp fixture models 71069, 71096, 71042, 71072, 71076, 71052, and 71036 ("the Morris Probe-Start Basic Models"), each of which was manufactured on or after January 1, 2009, and has a magnetic probe-start ballast² with a ballast efficiency of less than 94%.

#### **FINDINGS**

Accordingly, DOE finds that units of these Morris Probe-Start Basic Models manufactured on or after January 1, 2009, and containing magnetic probe-start ballasts, do not comply with the applicable federal energy conservation standard, which requires that such magnetic probe-start ballasts in metal halide lamp fixtures have a minimum ballast efficiency of 94%.

## **MANDATORY ACTIONS BY MORRIS**

In light of the above findings, Morris must take the following steps in accordance with 10 C.F.R. § 429.114(a):

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

<sup>&</sup>lt;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.

- (1) Immediately cease distribution in commerce in the United States of all units of the Morris Probe-Start Basic Models manufactured on or after January 1, 2009;
- (2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Morris has distributed units of any of the Morris Probe-Start Basic Models; and
- (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 Morris notified.

The response required by paragraph (3) must be dated, signed, and notarized.

Morris has provided to DOE some information regarding the distribution in commerce in the United States of the Morris Probe-Start Basic Models and currently is not required to provide any additional records, reports and other documentation pertaining to the acquisition, ordering, storage, shipment, or sale of the Morris Probe-Start Basic Models. In the future, however, DOE may require additional information related to the acquisition, ordering, and sale of the Morris Probe-Start Basic Models.

### OPTIONAL ACTIONS BY MORRIS

In addition to the mandatory steps listed above that Morris must complete, Morris may elect to modify any of the Morris Probe-Start Basic Models to make them comply with the applicable standard. A modified basic model shall then 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. In addition to satisfying all requirements of this part, any models within the basic model must be assigned new model numbers. Morris must also maintain, and provide upon request to DOE, records that demonstrate that modifications have been made to all units of the new basic model prior to distribution in commerce. Prior to distribution in commerce in the United States, Morris must also 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 Morris must bear the costs of all such testing.

If, after this testing, DOE determines that the modified basic model complies with the applicable standard, DOE will issue a notice of allowance to permit Morris to resume the distribution in commerce of the modified basic model in the United States. Until DOE determines that each modified basic model complies with the applicable standard, Morris is prohibited from selling or otherwise distributing units of each of the Morris Probe-Start Basic Models in commerce in the United States.

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

If Morris fails to cease immediately the distribution in commerce in the United States of all units of the Morris Probe-Start Basic Models, this letter serves as notice that DOE may seek a judicial order within 30 calendar days to restrain further distribution and civil penalties as authorized under 10 C.F.R. § 429.114(c).

The distribution in commerce of any units of a noncompliant basic model, including during any manufacturer-initiated testing as described above, may result in DOE seeking all appropriate legal remedies available under federal law, including injunctive relief and civil penalties for each unit of the basic model distributed in violation of federal law.

If you have any questions, you may contact Christina Studt by email at <a href="mailto:christina.studt@hq.doe.gov">christina.studt@hq.doe.gov</a> or phone at (202) 586-0389.

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