

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

In the Matter of:

Philips Lighting North America Corp.
(illuminated exit signs)

Case Number: 2014-SE-48006

NOTICE OF PROPOSED CIVIL PENALTY

Date issued: March 26, 2015

Number of alleged violations: **12,275**

Maximum possible assessment: **\$2,431,800**

Proposed civil penalty: **\$810,600**

The U.S. Department of Energy (“DOE”) Office of the General Counsel, Office of Enforcement, alleges that Philips Lighting North America Corp. (“Philips”) 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.

Specifically, DOE alleges:

1. Each illuminated exit sign manufactured on or after January 1, 2006, and distributed in commerce in the United States must consume no more energy than 5 watts per face. 10 C.F.R. § 431.206;
2. On or after January 1, 2006, Philips has manufactured¹ the following illuminated exit sign basic models (the “Philips Basic Models”):

Philips Basic Model Numbers		
RGLOFL1	RPTHF6012EFK2	VNLNR
RGLOFL2	SH12062PL7SFBWMF1SS120V	VNLNG
RGLOFLX1	SH12062PL7DFBWMF1SS120V	XLN1RW
RGLOFLX2	MJ8AS1RW3	NACL1R
RGLOLED1R	STDLC1RC	NSPL1R
RGLOLEDX1W	STELXC1RC	NSPL1G
RGLOLEDX1W/NiCd	STELXC1GC	
RGLOLEDX1R	EXL21AA	
RGLOLEDX1R/NiCd		

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

3. As Philips voluntarily self-disclosed to DOE, the Philips Basic Models are not in conformity with the applicable energy conservation standards; and
4. Beginning January 1, 2011, Philips distributed in commerce in the United States at least 12,275 units of the Philips Basic Models.

The following information is provided in question and answer format to help explain Philips's legal obligations and options.

What do I do now?

DOE is offering a settlement if you submit the signed Compromise Agreement and pay the fine within thirty (30) calendar days of the date of an Adopting Order adopting the Compromise Agreement.

If you do not choose to settle the case, DOE may seek up to the maximum penalty authorized by law (\$2,431,800). You have other options as described below.

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). Responses may be sent by any of the following methods:

By email to: christina.studt@hq.doe.gov

By fax to: (202) 586-3274 For this option, please first call (202) 586-0389.

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 at least 12,275 units distributed in commerce in the United States beginning in 2011.

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

Issued by:

_____/S/_____
Laura L. Barhydt
Assistant General Counsel for
Enforcement