

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

In the Matter of:)
)
Universal Lighting Technologies, Inc.) Case Number: 2013-SE-26004
(fluorescent lamp ballasts))
)

NOTICE OF PROPOSED CIVIL PENALTY

Date issued: August 19, 2013

Number of alleged violations: **454**
Maximum possible assessment: **\$90,800**
Proposed civil penalty: **\$90,800**

The U.S. Department of Energy (“DOE”) Office of the General Counsel, Office of Enforcement, alleges that Universal Lighting Technologies, Inc. (“Universal”) 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 430.

Specifically, DOE alleges:

1. A fluorescent lamp ballast is a “covered product” under 42 U.S.C §§ 6291(29)(A) and 6292(a)(13);
2. Effective July 1, 2005, each fluorescent lamp ballast sold by the manufacturer that is designed (a) for use in connection with one F40T12 lamp and to operate (b) at a nominal input voltage of 120 or 277 volts and (c) with an input current frequency of 60 Hertz must have a ballast efficacy factor of at least 2.29, 10 C.F.R. § 430.32(m)(3);
3. Universal has manufactured¹ and distributed in commerce in the United States fluorescent lamp ballast basic model B140R277HP, which is designed to operate at a nominal input voltage of 120 or 277 volts with an input current frequency of 60 Hertz;
4. Universal fluorescent lamp ballast basic model B140R277HP is not in conformity with the applicable energy conservation standard; and
5. Since January 1, 2010, Universal sold in the United States 454 units of basic model B140R277HP that did not meet the applicable energy conservation standard.

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

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

What do I do now?

DOE is offering a settlement of \$7,264 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 the maximum penalty authorized by law (\$90,800). 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. 42 U.S.C § 6303(d)(1).

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. 42 U.S.C § 6303(d)(3)(B). 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 under 42 U.S.C § 6303(d)(2)(A). 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
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 454 units sold in the United States beginning in 2010. DOE is not pursuing potential violations in 2009 or earlier at this time. If the case goes to hearing, this number would be adjusted to include violations before 2010 and any additional information obtained.

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