

FINDINGS

Based on the facts stated above, DOE finds that Sunlite metal halide lamp fixture basic models 04937-SU, 04938-SU, 04952 SU, and 04956 SU do not comply with the applicable energy conservation standard.

MANDATORY ACTIONS BY SUNLITE

Sunlite must take the following steps in accordance with 10 C.F.R. § 429.114(a):

- (1) Immediately cease distribution in commerce in the United States of all units of basic models 04937-SU, 04938-SU, 04952-SU, and 04956-SU;
- (2) Provide immediate written notification of this noncompliance determination to all persons in the United States to whom Sunlite has distributed units of basic models 04937-SU, 04938-SU, 04952-SU, and 04956-SU;
- (3) Provide to DOE within 15 calendar days of the date of this Notice a copy of the written notification required by paragraph (1) and a list of the parties Sunlite notified; and
- (4) Provide to DOE within 30 calendar days of the date of this Notice any and all records, reports, and other documentation pertaining to the acquisition, ordering, storage, shipment, or sale of units of basic models 04937-SU, 04938-SU, 04952-SU, and 04956-SU in the United States beginning February 1, 2010, in addition to a summary page listing the total number of units Sunlite distributed in commerce in the United States beginning February 1, 2010.¹

The responses required by paragraphs (3) and (4) must be dated, signed, and notarized.

If Sunlite claims that any of the information sought by this Notice is confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or is protected from disclosure pursuant to 18 U.S.C. § 1905, Sunlite must (1) provide one complete and full copy and one copy with the confidential information deleted and (2) submit supporting information together with the materials that are the subject of the confidentiality request. *See* 10 C.F.R. § 429.7. Failure to adhere to these procedures will result in a rejection of Sunlite's request for confidential treatment.

OPTIONAL ACTIONS BY SUNLITE

In addition to the mandatory steps listed above that Sunlite must complete, Sunlite may elect to modify any of basic models 04937-SU, 04938-SU, 04952-SU, and 04956-SU to bring them into

¹ Please note that "[t]he terms 'to distribute in commerce' and 'distribution in commerce' mean to sell in commerce, to import, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce." 42 U.S.C. § 6291(16). Thus, the summary page must include all units that Sunlite has imported into the United States, even if not sold, as well as any other units that otherwise meet the definition in 42 U.S.C. § 6291(16).

compliance with the applicable standard. A modified basic model shall 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. Prior to distribution in commerce in the United States, Sunlite must provide to DOE test data demonstrating that the modified basic model complies with the applicable standard and properly certify each modified basic model. All units must be tested in accordance with DOE regulations, and Sunlite must bear the costs of all such testing that is conducted.

If, after this testing, DOE determines that a modified basic model complies with the applicable standard, DOE will issue a notice of allowance to permit Sunlite to distribute the modified basic model in the United States. Until DOE determines that the modified model complies with the applicable standard and issues such notice, Sunlite is prohibited from selling or otherwise distributing units of any of basic models 04937-SU, 04938-SU, 04952-SU, and 04956-SU in commerce in the United States.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THIS NOTICE

If Sunlite fails to cease immediately the distribution in the United States of all units of basic models 04937-SU, 04938-SU, 04952-SU, and 04956-SU, this letter serves as notice that DOE will seek a judicial order within 30 calendar days to restrain further distribution. If, however, Sunlite provides DOE with a satisfactory statement within that 30-day period detailing the steps that Sunlite will take to ensure that units of the noncompliant model will no longer be distributed in commerce in the United States, DOE may elect to defer seeking such an order until a more appropriate time, if needed.

The distribution 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 with respect to each unit of the basic model distributed in violation of federal law.

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

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

In the Matter of:)
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Sunshine Lighting) Case Number: 2014-SE-54008
(metal halide lamp fixtures))
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NOTICE

Issued: March 6, 2015

By this notice, I hereby **WITHDRAW IN PART** the Notice of Noncompliance Determination issued December 2, 2014, for certain metal halide lamp fixtures manufactured and distributed in U.S. commerce by Lighting & Supplies, Inc. d/b/a Sunshine Lighting Company (“Sunshine”). In this notice, based upon information provided by Sunshine, DOE found metal halide lamp fixture basic models 04937-SU, 04938-SU, 04952-SU, and 04956-SU do not comply with the applicable energy conservation standard.

The finding regarding basic model 04938-SU was based upon DOE’s review of Sunshine’s test data in light of Sunshine’s certification report to DOE at CCMS #52135, which stated that 04938-SU contains a magnetic probe-start ballast. On December 12, 2014, Sunshine submitted a new certification report at CCMS #54845 reporting that basic model 04938-SU instead contains a pulse-start ballast, which are required to have a minimum efficiency of 88 percent. *See* 10 C.F.R. § 431.326(a)(1). Sunshine subsequently provided additional evidence to support this claim. As noted in the Notice of Noncompliance Determination, basic model 04938-SU has a certified ballast efficiency of 88 percent. Based upon this additional information, DOE **WITHDRAWS** its finding of noncompliance for basic model 04938-SU.

Sunshine has also provided evidence that, pursuant to 10 C.F.R. § 431.326(b)(3), basic model 04956-SU is exempt from energy conservation standards. Based upon this additional information, DOE **WITHDRAWS** its finding of noncompliance for basic model 04956-SU.

The Notice of Noncompliance Determination issued December 2, 2014, **REMAINS EFFECTIVE** for metal halide lamp fixture basic models 04937-SU and 04952-SU.

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