

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

In the Matter of:)
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Thomas & Betts Corporation) Case Number: 2017-SE-54008
(metal halide lamp fixtures))
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)
)

NOTICE OF PROPOSED CIVIL PENALTY

Date issued: April 20, 2021
Number of alleged violations: 495
Maximum possible assessment: \$234,630
Proposed civil penalty: \$234,630

The U.S. Department of Energy (“DOE”) Office of the General Counsel, Office of Enforcement, alleges that Thomas & Betts Corporation (“T&B”) 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 federal energy conservation standards set forth at 10 C.F.R. § 431.326. 42 U.S.C. §§ 6292(a)(19).

Unless an exclusion¹ applies, a metal halide lamp fixture manufactured on or after February 10, 2017, and tested at an input voltage other than 480 V must meet the standard specified in 10 C.F.R. § 431.326(c). For a fixture meeting these criteria and designed to be operated with 175-watt lamps, the minimum standard is 88.0%.² For a fixture meeting these criteria and designed to be operated with 250-watt lamps, the minimum standard is 88.9%.³ For a fixture

¹ Certain metal halide lamp fixtures are not subject to standards under certain specified conditions. Examples include fixtures with regulated lag ballasts; fixtures that use electronic ballasts that operate at 480 volts; and some fixtures that are rated only for 150 watt lamps. See 10 C.F.R. § 431.326(c, e).

² 10 C.F.R. § 431.326(c) specifies that a fixture designed to operate lamps greater than or equal to 150W and less than or equal to 200W and tested at a voltage other than 480 W are subject to a standard of 0.880 or 88.0%.

³ 10 C.F.R. § 431.326(c) specifies that a fixture designed to operate lamps greater than 250W and less than or equal to 500W and tested at a voltage other than 480 W are subject to a variable standard determined by the equation

$$\frac{1}{1 + 0.876 \times P^{-0.351}}$$
, where P is the rated wattage of the lamp the fixture is designed to operate.

meeting these criteria and designed to be operated with 400-watt lamps, the minimum standard is 90.4%.⁴

Distribution in commerce⁵ by a manufacturer or private labeler of any new covered product that is not in compliance with an applicable energy conservation standard constitutes a prohibited act. 10 C.F.R. § 429.102(a)(6). Each unit of the covered product distributed in the United States constitutes a separate violation, and each such knowing violation currently is subject to a maximum penalty of \$474. 42 U.S.C. § 6303; 10 C.F.R. § 429.120.

Allegations

DOE alleges:

1. Beginning February 10, 2017, T&B manufactured a 400-watt metal halide lamp fixture basic model containing model DP40C (“400-watt basic model”), a 175-watt metal halide lamp fixture basic model containing models XHP17C and DHP17C (“175-watt basic model”), and a 250-watt metal halide lamp fixture basic model containing models XHP25C and DHP25C (“250-watt basic model”).
2. The 400-watt basic model is a metal halide lamp fixture designed to operate 400-watt lamps with a magnetic ballast that is not a regulated lag ballast.
3. The 175-watt basic model is a metal halide lamp fixture designed to operate 175-watt lamps with a magnetic ballast that is not a regulated lag ballast.
4. The 250-watt basic model is a metal halide lamp fixture designed to operate 250-watt lamps with a magnetic ballast that is not a regulated lag ballast.
5. T&B’s own test data show the 400-watt basic model, with each unit tested at a voltage of 277 V, has an average ballast efficiency of 88.7%.
6. T&B’s own test data show the 250-watt basic model, with each unit tested at a voltage of 277 V, has an average ballast efficiency of 87.7%.
7. T&B admits the 175-watt basic model has a ballast efficiency of less than 88.0%.
8. Based on the date of manufacture and the wattage of lamps the 400-watt basic model is designed to operate, the 400-watt basic model must meet a minimum ballast efficiency of at least 90.4%.
9. Based on the date of manufacture and the wattage of lamps the 175-watt basic model is designed to operate, the 175-watt basic model must meet a minimum ballast efficiency of at least 88.0%.

⁴ 10 C.F.R. § 431.326(c) specifies that a fixture designed to operate lamps greater than 250W and less than or equal to 500W and tested at a voltage other than 480 W are subject to a variable standard determined by the equation

$\frac{1}{1 + 0.876 \times P^{-0.351}}$, where P is the rated wattage of the lamp the fixture is designed to operate.

⁵ “Distribute in Commerce” or “Distribution in Commerce” means 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).

10. Based on the date of manufacture and the wattage of lamps the 250-watt basic model is designed to operate, the 250-watt basic model must meet a minimum ballast efficiency of at least 88.9%.
11. As DOE found in a Notice of Noncompliance Determination issued on July 16, 2020, evaluating T&B's test data in accordance with 10 C.F.R. § 429.110(e) and 10 C.F.R. Part 429, Subpart C, Appendix A, shows that the 400-watt basic model does not comply with the minimum ballast efficiency of 90.4% set forth at 10 C.F.R. § 431.326(c).
12. As DOE found in a Notice of Noncompliance Determination issued on July 16, 2020, evaluating T&B's test data in accordance with 10 C.F.R. § 429.110(e) and 10 C.F.R. Part 429, Subpart C, Appendix A, shows that the 250-watt basic model does not comply with the minimum ballast efficiency of 88.9% set forth at 10 C.F.R. § 431.326(c).
13. As DOE found in a Notice of Noncompliance Determination issued on July 16, 2020, based on T&B's admission, the 175-watt basic model does not comply with the minimum ballast efficiency of 88.0% set forth at 10 C.F.R. § 431.326(c).
14. T&B has distributed in commerce in the United States at least 87 units of the 400-watt basic model, at least 163 units of the 175-watt basic model, and at least 245 units of the 250-watt basic model.
15. T&B knowingly distributed in commerce at least 495 new covered products that were not in conformity with an applicable energy conservation standard.

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

What do I do now?

DOE is offering a settlement if you submit the signed Compromise Agreement within thirty (30) calendar days of the date of this Notice. As part of that settlement, you must fulfill all obligations of the Compromise Agreement, including payment of the fine within thirty (30) calendar days after DOE issues an order adopting the Agreement ("Adopting Order"). If you do not choose to settle the case, DOE may seek as much as the maximum penalty (\$234,630) authorized by law. 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 notify DOE whether you 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 a signed compromise agreement within thirty (30) calendar days of the date of this notice to pay the lowest fine. If you do not wish to settle AND you wish to choose Option 1 as described above, you must notify DOE in writing within thirty (30) calendar days of the date you received this notice of your selection of Option 1. Otherwise, if you do not settle the case, DOE will refer to the case to an ALJ as described in Option 2.

How should I submit my response?

DOE accepts scanned images of signed documents (such as PDFs). Responses may be sent by email to christina.studt@hq.doe.gov.

What happens if I fail to respond?

If you fail to respond within thirty (30) calendar days after receiving 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, submit the signed compromise agreement. If you do not wish to accept DOE's settlement offer, notify DOE in writing 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 requires all Federal agencies to obtain the TIN in any case which 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 or equipment that does not meet an applicable energy or water conservation standard that is distributed in commerce in the U.S. 10 C.F.R. § 429.102(a)(6). In the maximum penalty calculation in this notice, DOE has calculated a maximum penalty of \$474 per unit for 495 units distributed in commerce in the U.S. in the last five years. This number may be adjusted to include any additional information obtained and any increase in the maximum penalty per violation. The maximum penalty increases each year and is determined based on the date of any final order assessing a penalty.

If you have any questions, please contact Christina Studt by email at christina.studt@hq.doe.gov.

Issued by:

_____/S/_____
Stephen C. Skubel
Acting Assistant General Counsel
for Enforcement