

In the Matter of:)	
)	
X-S Merchandise Inc.)	Case Number: 2023-SE-57002
(general service lamps))	
)	

NOTICE OF NONCOMPLIANCE DETERMINATION

FINDINGS

Item / Model Number	Description(s)	Approximate Efficacy (lm/W)
64050	3WAY / 3WAY 2PK	12
97784	REVEAL 3WAY FRSTD	10
32988	ALINE 100 WATT 2PK	11
42963	BULB CEILING FAN 60W 2PK	11
33122	ALINE	9
98765	ALINE	13
75343	GE AURADESCENT 40W DECO 2PK 40FM/AU/CF2-TP4	9
76327	GE BULB 40W CC CNDLBRA 4PK	9
40740	GE WARM WHITE 120W HALOGEN REF PART 66282	20
76239	GE CC 60W DECO CANDLE 4PK	11

Item / Model Number	Description(s)	Approximate Efficacy (lm/W)
97775	BULB SFT WHT 100W 3WAY 30/100-2/6PK	13
93120361	BULB 3WAY SFT WHT 2PK 30/100/DG2/4	13
40649	GE 40W INC B13 MED CLEAR 6CT	10
66247	GE SW BULBS 60 wt 4PK	10
66109	DECO CANDLE	9
44739	GE GLOBE CRY CLR SPHERE 3PK	
32012	GE SW BULBS 60w 4PK	10
98765	ALINE	

NOTICE

Distribution in commerce¹ of a covered product that does not meet the applicable energy conservation standards is a violation subject to civil penalty, regardless of the issuance of this Notice.

MANDATORY ACTION BY X-S

In light of the above findings, X-S must immediately cease distribution in commerce of all units of these basic models and any other basic models that do not comply with the applicable energy conservation standards.

Additionally, within 30 calendar days of the date of this Notice, X-S must provide to DOE records sufficient to show the number of units of the above-listed basic models that X-S has distributed in commerce from (a) March 1, 2023, through July 31, 2023; and (b) August 1, 2023, through September 2023. 10 C.F.R. § 429.114(a). This includes all units of the above-listed basic models that remain in X-S's inventory.

If you claim that any of the information sought by this Notice constitutes 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, you 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

¹ "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).

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 your request for confidential treatment.

CONSEQUENCES FOR CONTINUING TO DISTRIBUTE THE BASIC MODELS

If X-S continues distributing any units of the above-listed basic models or any other basic models that do not comply with the applicable energy conservation standards, DOE may seek a judicial order to restrain further distribution and may assess a higher civil penalty for units sold after the date of this Notice. If, however, X-S provides DOE with a satisfactory statement within that 30-day period detailing the steps that X-S will take to ensure that units of the noncompliant basic models will no longer be sold in commerce, 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 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.

Christina Studt
Trial Attorney

Certificate of Service

This is to certify that on November 30, 2023, I served the designated copies of the Notice of Noncompliance Determination issued in DOE Case Number 2023-SE-57002 on the parties listed below in the manner indicated.

X-S Merchandise Inc.
Todd Stern
Chief Executive Officer
todd@xsmmdse.com

PDF Copy by Email

Christina Studt
Trial Attorney