

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

In the Matter of: )  
)  
**Maxlite, Inc.** ) Case Number: 2015-CE-27018  
(general service fluorescent lamps) )  
)

**NOTICE OF PROPOSED CIVIL PENALTY**

Date issued: May 6, 2015

Number of alleged violations: 1095 (3 basic models, 365 days)

Maximum possible assessment: **\$219,000**

Proposed civil penalty: **\$54,750**

The U.S. Department of Energy (“DOE”) Office of the General Counsel, Office of Enforcement, alleges Maxlite, Inc., (“Maxlite”) 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. Part 429.

Specifically, DOE alleges:

1. A general service fluorescent lamp is a “covered product,” 42 U.S.C §§ 6292(a)(14) and 6291(30)(B).
2. Maxlite has manufactured<sup>1</sup> general service fluorescent lamps including basic models “F28T8/835/ES - F32T8/28WS/835,” “F28T8/841/ES - F32T8/28WS/841,” and “F28T8/850/ES - F32T8/28WS/850.”
3. For at least 365 days, Maxlite has distributed, and continues to distribute a variety of basic models of fluorescent lamps, including basic models “F28T8/835/ES - F32T8/28WS/835,” “F28T8/841/ES - F32T8/28WS/841,” and “F28T8/850/ES - F32T8/28WS/850,” in commerce in the U.S.
4. These basic models are “covered products.” *See* 42 U.S.C §§ 6292(a)(14) and 6291(30)(B); 10 C.F.R. § 430.2.
5. Maxlite failed to submit annual certification reports, due by March 1, for these basic models, as required by 10 C.F.R. §§ 429.12 and 429.27.

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<sup>1</sup> “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 your legal obligations and options.**

*What do I do now?*

DOE is offering to settle this enforcement action if you submit the signed Compromise Agreement within thirty (30) calendar days of the date of this Notice and then fulfill all obligations of the Compromise Agreement, which includes paying the fine within thirty (30) calendar days of the date of an Order adopting the Compromise Agreement.

If you do not choose to settle the case, DOE may seek the maximum penalty authorized by law (\$219,000). 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). You may respond 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 day you fail to submit to DOE the required information for a covered product. By regulation, you must submit a certification report for each basic model before distributing the basic model in U.S. commerce and annually thereafter. Therefore, your maximum penalty is calculated based on each day you distributed each basic model in commerce in the U.S. without having submitted a valid certification report. In the maximum penalty calculation in this Notice, DOE assumes that each basic model has been in distribution in commerce in the United States for at least 365 days. The maximum penalty is \$200 per basic model per day. 10 C.F.R. § 429.120.

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:

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Assistant General Counsel for  
Enforcement