

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

In the Matter of:

**Morris Products, Inc.,**  
Respondent

Case Number: 2013-SE-5403

**ORDER**

By the General Counsel, U.S. Department of Energy:

1. In this Order, I adopt the attached Compromise Agreement entered into between the U.S. Department of Energy (“DOE”) and Morris Products, Inc. (“Respondent”). The Compromise Agreement resolves the case initiated to pursue a civil penalty for distributing in commerce in the United States metal halide lamp fixtures that failed to meet the applicable standard for energy conservation in 10 C.F.R. § 431.326.
2. DOE and Respondent have negotiated the terms of the Compromise Agreement that resolves this matter. A copy of the Compromise Agreement is attached hereto and incorporated by reference.
3. After reviewing the terms of the Compromise Agreement and evaluating the facts before me, I find that the public interest would be served by adopting the Compromise Agreement.
4. Based on the information in the case file and Respondent’s admission of facts establishing violations, I find that Respondent committed Prohibited Acts by distributing in commerce faucets that were not in conformity with the applicable energy conservation standard. *See* 42 U.S.C. § 6302; 10 C.F.R. §§ 429.102(a)(6), 431.326(a)(2).
5. Accordingly, pursuant to 10 C.F.R. § 429.120 and 42 U.S.C. § 6303, I **HEREBY ASSESS** a civil penalty of \$170,720 **AND ORDER** that the Compromise Agreement attached to this Order is adopted.

\_\_\_\_\_/S/\_\_\_\_\_  
Steven P. Croley  
General Counsel

\_\_\_\_\_/ 7 / 21 / 15 \_\_\_\_\_  
Date

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**Morris Products, Inc.,** ) Case Number: 2013-SE-5403  
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**COMPROMISE AGREEMENT**

The U.S. Department of Energy (“DOE”) Office of the General Counsel, Office of Enforcement, initiated this action against Morris Products, Inc. (“Respondent”) pursuant to 10 C.F.R. § 429.122 by Notice of Proposed Civil Penalty alleging that Respondent had distributed in commerce in the United States metal halide lamp fixtures that did not conform to the applicable energy conservation standard. Respondent, on behalf of itself and any parent, subsidiary, division or other related entity, and DOE, by their authorized representatives, hereby enter into this Compromise Agreement for the purpose of settling this specific enforcement action.

**I. DEFINITIONS**

For the purposes of this Compromise Agreement, the following definitions apply:

- (a) “Act” means the Energy Policy and Conservation Act of 1975, as amended, 42 U.S.C. § 6291 *et seq.*
- (b) “Adopting Order” means an Order of the General Counsel adopting the terms of this Compromise Agreement without change, addition, deletion, or modification.
- (c) “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;
- (d) “DOE” means the U.S. Department of Energy.
- (e) “DOE Rules” means DOE’s energy and water conservation regulations found in Title 10, Parts 429, 430, and 431 of the Code of Federal Regulations.
- (f) “Manufacture” means to manufacture, produce, assemble, or import.
- (g) “Notice” means the Notice of Proposed Civil Penalty DOE issued to Respondent on June 19, 2015, and captioned as case number 2013-SE-5403.
- (h) “Parties” means DOE and Respondent.
- (i) “Respondent” means Morris Products, Inc., and any parent, subsidiary, division or other related entity.

The Agreement further incorporates by reference all of the definitions set forth in 42 U.S.C. §§ 6291 and 6311 and 10 C.F.R. Parts 429, 430, and 431.

## II. RECITALS

WHEREAS, pursuant to 42 U.S.C. § 6291 *et seq.*, DOE is responsible for promulgating and enforcing the energy and water conservation requirements set forth in DOE Rules; and

WHEREAS, DOE has promulgated energy conservation standards for metal halide lamp fixtures at 10 C.F.R. § 431.326; and

WHEREAS, on August 29, 2013, DOE issued a Notice of Noncompliance Determination finding that metal halide lamp fixture models<sup>1</sup> 71069, 71096, 71042, 71072, 71076, 71052, and 71036, manufactured by Respondent, do not comply with the applicable energy conservation standard; and

WHEREAS, each of these models is a “covered product”; and

WHEREAS, the energy conservation standards set forth in 10 C.F.R. § 431.326 apply to all units manufactured by Respondent on or after January 1, 2009; and

WHEREAS, on June 19, 2015, DOE initiated an action to assess a civil penalty for distributing these noncompliant models in commerce in the United States; and

WHEREAS, Respondent admits:

1. Respondent manufactured metal halide lamp fixture models 71069, 71096, 71042, 71072, 71076, 71052, and 71036;
2. These models are subject to the energy conservation standard set forth in 10 C.F.R. § 431.326(a)(2);
3. Beginning January 1, 2011, Respondent distributed in commerce in the United States at least the following quantities of units of each corresponding model that did not meet the applicable energy conservation standard:

<b>Model</b>	<b>Quantity Distributed in U.S. Commerce 2011–2013</b>
71069	147
71096	64
71042	174
71072	68
71076	131
71052	262
71036	221

WHEREAS, DOE, pursuant to 42 U.S.C. §§ 6296, 6302, and 6303, and 10 C.F.R. Part 429, Subpart C, is authorized to assess civil monetary penalties against any manufacturer that knowingly distributes in commerce any new covered product that is not in conformity with an applicable energy conservation standard; and

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<sup>1</sup> Some models, such as 71042 and 71052, had both pulse-start and probe-start versions. DOE’s Notices and this Agreement apply only to the probe-start versions.

WHEREAS, DOE, as the agency charged with developing and administering a balanced and coordinated national energy policy, concludes that this Compromise Agreement properly balances the policies recognized in the Energy Policy and Conservation Act and is the appropriate way to resolve this matter;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements set forth below, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree as follows:

### III. TERMS OF THE AGREEMENT

1. **Adopting Order.** The Parties agree that the provisions of this Compromise Agreement shall be subject to final approval by the General Counsel by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.
2. **Obligations of Respondent.**
  - a. If Respondent executes this Compromise Agreement and returns it to DOE within thirty (30) calendar days after the date of the Notice, Respondent agrees to pay the sum of \$170,720, as full satisfaction of the civil penalty proposed in the Notice, within thirty (30) calendar days of the issuance of an Adopting Order.
  - b. Respondent agrees to abide by the terms of the Notice of Noncompliance Determination, issued on August 29, 2013, captioned under case number 2013-SE-5403.
3. **Obligations of DOE.**
  - a. In express reliance on the covenants and representations in this Compromise Agreement and to avoid further expenditure of public resources, DOE agrees to accept Respondent's payment pursuant to paragraph III.2.a in full satisfaction of the civil penalty authorized by the Act.
  - b. DOE agrees to issue promptly an Adopting Order adopting this Agreement.
  - c. DOE agrees to terminate this enforcement action with prejudice upon Respondent's completion of its Obligations in accordance with paragraph III.2, above. If Respondent fails to complete its Obligations in accordance with paragraph III.2, above, DOE may notify Respondent that the Agreement is null and void and may seek the maximum penalty in accordance with 10 C.F.R. § 429.120.
4. **Jurisdiction.** This Compromise Agreement is entered pursuant to DOE's authority to interpret and enforce its rules for energy conservation and to enter into its own agreements interpreting and applying those rules. The Parties agree that DOE has jurisdiction over Respondent and primary jurisdiction over the matters contained in this Compromise Agreement and has the authority to enter into this Compromise Agreement.
5. **Effective Date.** The Parties agree that this Compromise Agreement shall become effective on the date on which the General Counsel issues the Adopting Order. As of that date, the Adopting Order and this Compromise Agreement shall have the same force and effect as any

other Order of the General Counsel. Any violation of the Adopting Order or of the terms of this Compromise Agreement shall constitute a separate violation of an Agency Order, entitling DOE to exercise any rights and remedies attendant to the enforcement of an Agency Order.

6. **Payment Instructions and Late Payments.** Respondent agrees to make all payments in a timely manner and in a method set forth in the attached “Payment Instructions.” Respondent acknowledges and agrees to comply with the “Late Payment” provisions provided therein.
7. **Limitations.** Nothing in this agreement binds any other agency of the United States government beyond DOE.
8. **Waivers.** Respondent agrees not to seek judicial review or otherwise contest or challenge the validity of the terms and penalties set out in this Compromise Agreement or the Notice associated with this case, including any right to judicial review that may be available to the Respondent. If either Party (or the United States on behalf of DOE) brings a judicial action to enforce the terms of this Compromise Agreement, neither Respondent nor DOE shall contest the validity of the Compromise Agreement, and Respondent waives any statutory right to a trial *de novo*. Respondent hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504, relating to the matters addressed in this Compromise Agreement.
9. **Final Settlement.** The Parties agree and acknowledge that this Compromise Agreement shall constitute a final settlement between the Parties. This Compromise Agreement resolves only issues addressed in the Compromise Agreement.
10. **Merger.** This Compromise Agreement constitutes the entire agreement between the Parties and supersedes all previous understandings and agreements between the Parties, whether oral or written.
11. **Modifications.** This Compromise Agreement cannot be modified without the advance written consent of both Parties.
12. **Severability.** If any provision of this agreement is held to be invalid, illegal, void, or unenforceable, then that provision is to be construed by modifying it to the minimum extent necessary to make it enforceable.
13. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Compromise Agreement.

14. **Counterparts.** This Compromise Agreement may be signed in any number of counterparts (including by facsimile or electronic mail), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

\_\_\_\_\_/S/\_\_\_\_\_  
Laura L. Barhydt  
Assistant General Counsel for  
Enforcement  
U.S. Department of Energy

\_\_\_\_\_/S/\_\_\_\_\_  
(Signature)  
Typed Name: \_Jeffrey Schwartz\_\_\_\_\_  
Title: \_\_President\_\_\_\_\_  
Company Name: Morris Products Inc

\_\_\_\_ July 20, 2015\_\_\_\_\_  
Date

\_\_\_\_ July 20, 2015\_\_\_\_\_  
Date