

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

In the Matter of:)
)
P.Q.L., Inc.) Case Number: 2013-CE-27001
(medium base compact fluorescent lamps))
)

NOTICE OF PROPOSED CIVIL PENALTY

Date issued: July 10, 2015
Number of alleged violations: 6,552 (26 basic models, 127 days)
Maximum possible assessment: **\$ 1,310,400**
Proposed civil penalty: **\$ 327,600**

The U.S. Department of Energy (“DOE”) Office of the General Counsel, Office of Enforcement, alleges that P.Q.L., Inc. (“PQL”) 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. PQL has manufactured¹ medium base compact fluorescent lamps (“MBCFLs”) including basic models 70420, 70421, 70422, 70423, 70424, 70425, 70426, 70430, 70427, 70428, 70440, 70429, 70431, 70432, 70433, 70434, 70438, 70436, 70435, 70069, 82344, 81633, 81632, 91648, 91649, and 71651².
2. For at least 127 days, PQL has distributed, and continues to distribute, basic models 70420, 70421, 70422, 70423, 70424, 70425, 70426, 70430, 70427, 70428, 70440, 70429, 70431, 70432, 70433, 70434, 70438, 70436, 70435, 70069, 82344, 81633, 81632, 91648, 91649, and 71651 in commerce in the U.S.
3. Basic models 70420, 70421, 70422, 70423, 70424, 70425, 70426, 70430, 70427, 70428, 70440, 70429, 70431, 70432, 70433, 70434, 70438, 70436, 70435, 70069, 82344, 81633,

¹ “Manufacture” means to manufacture, produce, assemble, or import. 42 U.S.C. § 6291(10).

² In a submission at CCMS #64985, PQL listed basic model 71651 containing individual model 91651. Under DOE’s regulations, PQL may choose to submit this combination; however, DOE notes that in other listings, the basic model and individual model are the same. Thus, DOE suspects this basic model may contain a typographical error.

81632, 91648, 91649, and 71651 are “covered products.” *See* 42 U.S.C. §§ 6291(30)(S), 6295(a), (bb); 10 C.F.R. § 430.2.

4. On November 5, 2013, PQL agreed to pay \$8,000 after failing to submit certification reports for MBCFLs, general service fluorescent lamps, and fluorescent lamp ballasts. As part of that agreement, PQL agreed to submit, no later than sixty (60) calendar days after DOE issued an order adopting the agreement (“Adopting Order”), certification reports for all basic models of all covered products and covered equipment that it manufactured and distributed in commerce in the U.S.
5. DOE issued an Adopting Order on November 7, 2013.
6. Pursuant to the Adopting Order and compromise agreement, PQL was obligated to submit certification reports no later than January 6, 2014, for all basic models of all covered products and covered equipment that it manufactured and distributed in commerce in the U.S.
7. On January 16, 2014, PQL informed DOE that it had manufactured and distributes in U.S. commerce 64 MBCFL products.
8. On April 24, 2014, DOE contacted PQL, noting that PQL had not submitted any certification reports for MBCFLs.
9. On April 25, 2014, PQL informed DOE that it no longer imports MBCFLs.
10. On February 13, 2015, DOE contacted PQL to clarify that PQL must submit certification reports annually for each PQL-manufactured (including PQL-imported) basic model in distribution in U.S. commerce, noting again that DOE had not received any certification reports for MBCFLs.
11. On February 26, 2015, DOE granted PQL an extension until March 5, 2015, to submit all required certification reports for MBCFLs.
12. Between March 5, 2015, and June 2, 2015, PQL failed to submit a certification report for MBCFL basic models 70420, 70421, 70422, 70423, 70424, 70425, 70426, 70430, 70427, 70428, 70440, 70429, 70431, 70432, 70433, 70434, 70438, 70436, 70435, 70069, 82344, 81633, 81632, 91648, 91649, and 71651 before distributing these basic models in commerce in the U.S., as required by 10 C.F.R. §§ 429.12 and 429.35.
13. On June 3, 2015, at CCMS #64985, PQL submitted an invalid certification report for MBCFL basic models 70420, 70421, 70422, 70423, 70424, 70425, 70426, 70430, 70427, 70428, 70440, 70429, 70431, 70432, 70433, 70434, 70438, 70436, 70435, 70069, 82344, 81633, 81632, 91648, 91649, and 71651. Specifically, PQL certified that, for each MBCFL basic model, it had received a waiver from DOE’s test procedure. DOE has not issued any test procedure waivers to PQL for MBCFLs.
14. Beginning June 3, 2015, and as of July 9, 2015, PQL failed to submit a valid certification report for MBCFL basic models 70420, 70421, 70422, 70423, 70424, 70425, 70426, 70430, 70427, 70428, 70440, 70429, 70431, 70432, 70433, 70434, 70438, 70436, 70435,

70069, 82344, 81633, 81632, 91648, 91649, and 71651 before distributing these MBCFL basic models in commerce in the U.S., as required by 10 C.F.R. §§ 429.12 and 429.35.

15. Failure to submit a valid certification report for a covered product as required by 10 C.F.R. Part 429 is a prohibited act pursuant to 10 C.F.R. § 429.102(a)(1) and subject to civil penalty as described in 10 C.F.R. § 429.120.

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

What do I do now?

DOE is offering a settlement of **\$16,000** 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 pay the fine within thirty (30) calendar days after DOE issues an order adopting the Agreement (“Adopting Order”) and within sixty (60) calendar days of the date of the Adopting Order properly certify all models that you manufacture and distribute in commerce in the U.S. If you do not submit the required certification documents within sixty (60) calendar days of the date of the Adopting Order, you will be subject to the maximum penalty of \$200 per day per basic model for every day you do not certify each basic model.

You may settle the case for **\$32,000** if you submit the signed compromise agreement between 31 and 60 calendar days after the date of this notice. As part of that settlement, you must pay the fine within thirty (30) calendar days of the date of the Adopting Order and within sixty (60) calendar days of the date of the Adopting Order properly certify all models that you manufacture and distribute in commerce in the United States. If you do not submit the required certification documents within 60 calendar days of the date of the Adopting Order, you will be subject to the maximum penalty of \$200 per day per basic model for every day you do not certify each basic model.

If you do not choose to settle the case, DOE may seek the **maximum penalty** (currently \$ 1,310,400) 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, you must select Option 1 or Option 2, below, within thirty (30) calendar days.

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 date 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 fine (\$16,000)**. 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. 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 (which is enclosed). 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 you 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. 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. 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:

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