

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

In the Matter of: )  
)  
)  
**Royston Group** ) Case Number: 2022-SE-42005  
(commercial refrigerators, freezers, and )  
refrigerator-freezers) )

Issued: September 28, 2022

**NOTICE OF NONCOMPLIANCE DETERMINATION**

Commercial refrigerators, freezers, and refrigerator-freezers (“commercial refrigeration equipment”) are covered equipment subject to federal energy conservation standards. 42 U.S.C. § 6311(1)(E), 10 C.F.R. §§ 431.2, 431.62, and 431.66. Manufacturers and private labelers are prohibited from distributing in commerce<sup>1</sup> in the United States covered equipment that does not comply with the applicable federal energy conservation standards. 10 C.F.R. § 429.102(a)(6).

**ROYSTON ADMISSIONS**

On or about November 18, 2020, the Royston Group (“Royston”) disclosed to the U.S. Department of Energy (“DOE”) that Royston had recently purchased the assets of Southern CaseArts (“SCA”), a manufacturer of commercial refrigeration equipment. Royston advised DOE that after the purchase, Royston had discovered that SCA had failed to comply with DOE requirements governing testing, certification, and efficiency standards for commercial refrigeration equipment.

On or about March 19, 2021, and September 26, 2022, Royston provided DOE with additional information about these failures. Specifically, Royston indicated that Royston had determined that the following 13 basic models<sup>2</sup> did not comply with the applicable energy conservation standards set forth at 10 C.F.R. § 431.66:

1. 03.0-MDI-03HC-S
2. 04.6-MDI-03VN-S
3. 06.0-SAR-BINST-S
4. 06.0-BCX-BYSSD-R
5. 06.0-MDC-78LS-R

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<sup>1</sup> Please note that “[t]he terms ‘to distribute in commerce’ and ‘distribution in commerce’ mean 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).

<sup>2</sup> A “basic model” is all units manufactured by one manufacturer that have the same primary energy source and essentially identical electrical, physical, and functional characteristics that affect energy consumption or energy efficiency. See 10 C.F.R. § 431.62.

6. 08.0-BCX-BAV-R
7. 08.0-BCX-BAVSS-R
8. 08.0-MDI-04TE-R
9. 12.0-BCX-BAVSS-R
10. 12.0-BCX-BYSS-R
11. 12.0-BCX-CVXSS-R
12. 14.8-MDC-50LC-R
13. 15.0-ODC-S-R

### FINDINGS

Based on the facts stated above, DOE finds (based on Royston's self-report) that the 13 basic models listed above do not comply with the applicable federal energy conservation standards for commercial refrigeration equipment.

### NOTICE

Distribution in commerce of covered equipment that does not meet energy conservation standards is a violation subject to civil penalty, regardless of the issuance of this Notice. If Royston continues to distribute the basic models, DOE may assess a higher civil penalty for units sold after the date of this Notice.

### MANDATORY ACTION BY ROYSTON

In light of the above findings, Royston must, within 30 calendar days of the date of this Notice, provide to DOE records sufficient to show the number of units of the basic models that Royston distributed in commerce in the United States in the past five years, categorized by year.

10 C.F.R. § 429.114(a). This includes all units that remain in Royston's inventory that were manufactured (including importation) on or after September 28, 2017. You may send those records to the undersigned attorney via electronic mail at [dion.casey@hq.doe.gov](mailto:dion.casey@hq.doe.gov).

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 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.

### OPTIONAL ACTIONS BY ROYSTON

In addition to the mandatory steps listed above that Royston must complete, Royston may elect to modify a basic model to bring it into compliance with the applicable standards. A modified basic model shall be treated as a new basic model under DOE regulations and must be certified in accordance with the provisions of 10 C.F.R. Part 429. In addition to satisfying all requirements of Part 429, any individual models within the basic model must be assigned new model numbers. In addition, Royston must maintain, and provide to DOE upon request, records

that demonstrate that modifications have been made to all units of the new basic model prior to distribution in commerce. Prior to distribution in commerce in the United States, Royston must provide to DOE test data demonstrating that the modified basic model complies with the applicable standards.<sup>3</sup> All units must be tested in accordance with DOE regulations, and Royston shall bear the costs of all such testing that is conducted.

If, after this testing, DOE determines that the modified basic model complies with the applicable standards, DOE shall issue a Notice of Allowance to permit Royston to resume the distribution of the modified basic model in the United States.

#### CONSEQUENCES FOR CONTINUING TO DISTRIBUTE THE BASIC MODELS

Should Royston fail to cease immediately the distribution in the United States of all units of the basic models, this letter serves as notice that DOE may seek a judicial order within 30 calendar days to restrain further distribution. If, however, Royston provides DOE with a satisfactory statement within that 30-day period detailing the steps that Royston will take to ensure that units of the noncompliant models will no longer be distributed in commerce in the United States, 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.

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Dion Casey  
Trial Attorney  
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Phone: 240-798-1204

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<sup>3</sup> DOE may require that an independent, third-party testing facility perform this testing.

## Certificate of Service

This is to certify that on September 28, 2022, the undersigned served the designated copy of the Notice of Noncompliance Determination issued in DOE Case Number 2022-SE-42005 on the party listed below in the manner indicated.

Royston Group  
c/o Mary Anne Sullivan  
Senior Counsel  
Hogan Lovells US LLP  
[maryanne.sullivan@hoganlovells.com](mailto:maryanne.sullivan@hoganlovells.com)

PDF  
Email

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Dion Casey  
Trial Attorney