

**State of California
AIR RESOURCES BOARD**

EXECUTIVE ORDER EOD-24-005

**Variance from Prohibitions on Use of Certain Hydrofluorocarbons in
Stationary Refrigeration, Stationary Air-Conditioning, and Other End-Uses
Requirements**

**Haskris Company
Industrial Process Refrigeration Chillers**

WHEREAS, pursuant to California Health and Safety Code sections 39730, 39730.5, and 39734, the California Air Resources Board (CARB) has established prohibitions on the use of certain hydrofluorocarbons (HFCs) in stationary refrigeration, stationary air-conditioning, and other end uses, as described in California Code of Regulations, title 17, section 95371 et. seq. (HFC Regulation);

WHEREAS, pursuant to California Health and Safety Code section 39734, CARB has established a list of prohibited substances, as set forth in California Code of Regulations, title 17, sections 95371-95379;

WHEREAS, under California Code of Regulations, title 17, section 95734 subsection (c) a manufacturer may not use a substance with a global warming potential (GWP) of 750 or greater in Industrial Process Refrigeration chillers (new) designed for chilled fluid leaving the chiller at temperatures $> +35^{\circ}\text{F}$ (2°C) as of January 1, 2024;

WHEREAS, California Code of Regulations, title 17, section 95378 allows an Applicant to submit a request for a variance from the requirements of sections 95374 and 95375;

WHEREAS, the Executive Officer may grant a variance if the Executive Officer determines that the Applicant has proven by clear and convincing evidence that the criteria for a variance specified in section 95378, subsection (b) has been met and that the Applicant has complied with all application requirements specified in section 95378, subsection (c);

WHEREAS, under section 95378, subsection (b)(1), the Executive Officer may grant a variance for impossibility if the Applicant cannot comply with the regulatory requirements, and the Applicant can demonstrate all of the following criteria: (1) A lower-risk substitute is not currently or potentially available; (2) An exemption will not increase the overall risk to human health or the environment; and (3) The Applicant has used best efforts to anticipate and address the impossibility and any potential noncompliance;

WHEREAS, Haskris Company Corporation (Haskris) applied on March 5, 2024, for a variance from the prohibitions on the use of certain HFCs in 85 Industrial Process Refrigeration chiller products until December 31, 2024;

WHEREAS, on March 25, 2024, a delegee of the Executive Officer determined that the variance application was complete;

WHEREAS, a delegee of the Executive Officer posted Haskris' variance application for public comment beginning March 26, 2024 and ending April 25, 2024, during which time public comment was invited, and two comments were received. One comment was against granting of variances in general, and the second comment was unrelated to the Haskris variance application;

WHEREAS, Haskris presented evidence that in 2022 Haskris began designing Industrial Process Refrigeration chillers capable of using the compliant refrigerant, R-454B, instead of non-compliant refrigerant R-407C. Haskris has encountered federal regulatory barriers and technological barriers to completing the transition. This is due to lack of approval for the use of these refrigerants under the U.S. Environmental Protection Agency's (U.S. EPA) Significant Use Alternatives Policy (SNAP) Rule 26, and lack of component availability due to the small size of Haskris supply chain and current lack of availability of components compatible with compliant refrigerants;

WHEREAS, a delegee of the Executive Officer affirmed that the products meet the definition of an "Industrial Process Refrigeration - chiller" as described in section 95373 of the HFC Regulation, and are prohibited from containing refrigerants with a GWP of 750 or greater if manufactured after January 1, 2024 as described in Table 3 in section 95374(c) of the HFC Regulation;

WHEREAS, Haskris will need to redesign the products to bring them into compliance with the HFC Regulation Requirements, and the company presented evidence that it cannot complete the redesign, testing, manufacturing, and certification process for compliance before January 1, 2025;

WHEREAS, Haskris stated that without a variance, Haskris would experience extraordinary economic hardship due to the immediate cessation of deliveries in its California market;

WHEREAS, a delegee of the Executive Officer did not dispute Haskris' assessment of the time Haskris would need to bring the products into compliance with the HFC Regulation Requirements and did not dispute Haskris' quantification of economic losses if a variance was not granted;

WHEREAS, Haskris proposed in its variance application to manufacture and sell 85 Industrial Process Refrigeration chillers using refrigerant with a GWP above the applicable prohibitions until December 31, 2024, and will reduce excess GHG emissions that may result from the granting of this variance by expanding the Haskris refrigerant recycling program, and will transition higher-GWP R-134a chillers to lower-GWP R-513A chillers ahead of regulatory deadlines outside of California;

WHEREAS, Haskris has demonstrated that they cannot comply with the regulation;

WHEREAS, Haskris has demonstrated that a lower-risk substitute is not currently or potentially available because the U.S. EPA has not finalized SNAP Rule 26 which would allow the use of lower-GWP refrigerants in Industrial Process Refrigeration chillers;

WHEREAS, Haskris has demonstrated that an exemption will not increase the overall risk to human health or the environment because they will expand the Haskris refrigerant recycling program, and will transition other chiller applications early to low-GWP R513A refrigerant to offsets equivalent to the excess emissions expected from their sale of the 85 non-compliant Industrial Process Refrigeration chillers allowed by this variance;

WHEREAS, Haskris has demonstrated that it has used best efforts to anticipate and address the impossibility and any potential noncompliance;

WHEREAS, the Executive Officer considered whether the grant of the requested Variance complies with the California Environmental Quality Act and finds that Categorial Exemption Class 8 (California Code of Regulations, title 14, section 15308) applies here based on the facts before the agency.

NOW, THEREFORE, I, Michael FitzGibbon, based on materials submitted by Haskris and additional information and testimony received during the public comment period, find that:

1. Haskris cannot meet the requirements of Table 3 in section 95374(c) of the HFC Regulation for 2024 for reasons beyond its control, including the lead time required to design, test, manufacture, and bring to market fully compliant products;
2. Requiring Haskris to comply with the requirements of Table 3 in section 95374(c) of the HFC Regulation in 2024 would result in extraordinary economic hardship;

3. Haskris will mitigate the noncompliance to the maximum extent feasible by agreeing to expand the Haskris refrigerant recycling program and will transition various chiller models in the R series from higher-GWP R-134a to lower-GWP R-513A ahead of regulatory deadlines outside of California, to fully offset any excess emissions from the noncompliance, as specified further in the approval conditions below;
4. Haskris has submitted a compliance plan that can reasonably be implemented and will achieve compliance as expeditiously as possible, which is full compliance with the HFC Regulation Requirements by January 1, 2025; and
5. Based on the entire record, Haskris has proven by Clear and Convincing Evidence that it has met the criteria for issuance of a variance to Haskris for 2024 with the conditions specified below because: (a) A lower-risk substitute is not currently or potentially available; (b) An exemption will not increase the overall risk to human health or the environment; and (c) The Applicant has used best efforts to anticipate and address the impossibility and any potential noncompliance.

IT IS ORDERED AND RESOLVED that Haskris is granted a variance until December 31, 2024, to manufacture and sell 85 Industrial Process Refrigeration chiller products which do not otherwise comply with the HFC Regulation Requirements for Industrial Process Refrigeration chillers as described in California Code of Regulations, title 17, section 95734.

IT IS FURTHER ORDERED that this variance is granted subject to Haskris' adherence with their plan to bring their chiller products into compliance by December 31, 2024. Haskris shall maintain records substantiating their adherence with this compliance plan. Records of the compliance plan shall be made available to the Executive Officer, or their delegee, upon request.

IT IS FURTHER ORDERED that Haskris will mitigate excess GHG emissions that may result from the granting of this variance by expanding the Haskris refrigerant recycling program, and will transition various chiller models in the R series from higher-GWP R-134a to lower-GWP R-513A ahead of regulatory deadlines outside of California. Haskris will complete this mitigation plan by December 31, 2024. Haskris shall maintain records substantiating adherence with this mitigation plan. Records of the mitigation plan must be made available to the Executive Officer, or their delegee, upon request.

IT IS FURTHER ORDERED that the final date that variance from compliance will be allowed for the products covered by this variance is December 31, 2024.

Executed in Sacramento, California May 21, 2024.



Michael FitzGibbon, Chief
Atmospheric Science and Climate Strategies Branch
Research Division
CALIFORNIA AIR RESOURCES BOARD