

**State of California
AIR RESOURCES BOARD**

EXECUTIVE ORDER H4-25-004

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

**Schneider Electric USA
Other Air-conditioning Equipment**

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 Other Air-conditioning equipment as of January 1, 2025;

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, on November 21, 2024, Schneider Electric USA, Inc. (Schneider Electric) applied for a variance from the requirements under section 95734 subsection (c) of the HFC Regulation for Other Air-conditioning equipment until January 1, 2027;

WHEREAS, on December 4, 2024, a delegee of the Executive Officer determined that the variance application was complete;

WHEREAS, a delegee of the Executive Officer posted the Schneider Electric variance application for public comment beginning December 4, 2024, and ending January 3, 2025, during which time public comment was invited, and two comments were received. One comment was against the granting of a variances in general, and the second comment was unrelated to the variance application;

WHEREAS, Schneider Electric presented substantial evidence that in 2021 Schneider Electric began designing computer room air conditioners (CRACs) capable of using compliant refrigerants, R-32 and R-454B, instead of non-compliant refrigerant, R-410A. Schneider Electric has encountered supply chain disruptions and technological barriers to completing the transition to HFC Regulation compliant refrigerants. Schneider Electric had planned to transition their CRAC RD100 series to use R-32 refrigerant, but supply chain disruptions caused by federal Executive Order 14024, "Blocking Property with Respect to Specified Harmful Foreign Activities of the Government of the Russian Federation," have forced a delay in the transition. Additionally, the current lack of available components compatible with compliant refrigerant have delayed the transition of Schneider Electric's RD200, RD300, RH300, and RD 600 series CRACs;

WHEREAS, a delegee of the Executive Officer affirmed that the Schneider Electric series models RD100, RD200, RD300, RH300, and RD 600 herein collectively referred to as "Schneider Electric equipment" meet the definition of "Other Air-conditioning equipment" 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, 2025 as described in Table 3 in section 95374(c) of the HFC Regulation;

WHEREAS, Schneider Electric will need to redesign the Schneider Electric equipment to bring them into compliance with the HFC Regulation requirements, and Schneider Electric presented substantial evidence that it cannot fully complete the redesign, testing, manufacturing, and certification process for HFC Regulation compliance before January 1, 2027;

WHEREAS, Schneider Electric stated that without a variance, Schneider Electric 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 Schneider Electric's assessment of the time Schneider Electric would need to bring the Schneider Electric

equipment into compliance with the HFC Regulation requirements and did not dispute Schneider Electric's quantification of economic losses if a variance was not granted;

WHEREAS, Schneider Electric proposed in its variance application to manufacture and sell Schneider Electric equipment using no more than 12,173 combined pounds of R-410A refrigerant until January 1, 2027, and to reduce excess greenhouse gas (GHG) emissions that will result from the granting of this variance through the purchase of equivalent carbon emission offsets;

WHEREAS, Schneider Electric has demonstrated that in the absence of a variance they cannot comply with the HFC Regulation;

WHEREAS, Schneider Electric has demonstrated that a lower-risk substitute is not currently or potentially available due to the lack of component availability due to the small size of Schneider Electric supply chain and current lack of availability of components compatible with HFC Regulation compliant refrigerant;

WHEREAS, Schneider Electric has demonstrated that an exemption will not increase the overall risk to human health or the environment because they will reduce excess GHG emissions that may result from the granting of this variance through the purchase of equivalent carbon emission offsets;

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

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

1. Schneider Electric cannot meet the requirements of Table 3 in section 95374(c) of the HFC Regulation for reasons beyond its control, including the lead time required to design, test, manufacture, and bring to market fully compliant products;
2. Requiring Schneider Electric to comply with the requirements of Table 3 in section 95374(c) of the HFC Regulation would result in extraordinary economic hardship;
3. Schneider Electric will mitigate its HFC Regulation noncompliance to the maximum extent feasible by agreeing to purchase a quantity of carbon offsets equal to 8,068 metric tons of carbon dioxide equivalent (MTCO₂e) for the variance period from a reputable offset provider;

4. Schneider Electric has submitted a compliance plan that can reasonably be implemented and will achieve compliance as expeditiously as possible, which includes compliance with the HFC Regulation requirements by January 1, 2027; and
5. Based on the entire record, Schneider Electric has proven by clear and convincing evidence that it has met the criteria for issuance of a variance for the Schneider Electric equipment for 2025 through 2026 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 Schneider Electric is granted a variance until December 31, 2026 to manufacture and sell Schneider Electric equipment using no more than 12,173 aggregate pounds of R-410A refrigerant which do not otherwise comply with the HFC Regulation requirements for "Other Air-conditioning equipment" as described in California Code of Regulations, title 17, section 95734.

IT IS FURTHER ORDERED that this variance is granted subject to Schneider Electric's adherence with their plan to bring Schneider Electric equipment into compliance by January 1, 2027. Schneider Electric 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 Schneider Electric will mitigate excess GHG emissions that may result from the granting of this variance by purchasing carbon offsets equal to 8,068 MTCO_{2e}. Schneider Electric will complete this mitigation plan by April 10, 2025. Schneider Electric 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 if Schneider Electric is unable to transition any of the Schneider Electric equipment covered under this variance to HFC Regulation compliant alternatives by January 1, 2027, then such non-compliant equipment shall not be installed, used or otherwise enter into commerce in California and will be subject to all the prohibitions for "Other Air-conditioning equipment" as described in California Code of Regulations, title 17, section 95734 and requirements of section 95375.

IT IS FURTHER ORDERED that the final date that variance from HFC Regulation compliance will be allowed for the Schneider Electric equipment covered by this variance is December 31, 2026.

Executed in Sacramento, California January 10, 2025.

Mike FitzGibbon

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