

Attachment 2 – Regulatory Amendment to Create the Hydrogen Infrastructure Pathway

§ 95488.2 Pathway Registration and Facility Registration is amended by adding at the end:

(c): Hydrogen Refueling Facility Registration. All hydrogen refueling stations applying to generate credits through the Hydrogen Infrastructure Pathway per section 95490.5 must be registered in the AFP. All of the following fields that apply are required:

- (1) Refueling station company name and full mailing address*
- (2) Company contact person's contact information*
 - a. Name*
 - b. Title or position*
 - c. Phone number*
 - d. Mobile phone number*
 - e. Email address*
 - f. Company web site URL*
- (3) Facility name (or names, if more than one facility is covered by the proposed pathways)*
- (4) Facility address (or addresses, if more than one facility is covered by the proposed pathways)*
- (5) Facility geographical coordinates (for each facility covered by the proposed pathways).*

Coordinates can be reported using either the latitude and longitude or the Universal Transverse Mercator coordinate systems.
- (6) Facility contact person's contact information*
 - a. Name*
 - b. Title or Position*
 - c. Phone number*
 - d. Mobile phone number*
 - e. Email address*
- (7) **Facility Nameplate Refueling Capacity** as defined in 95490.5 (b) (1) (A). This information is required for each facility covered by the proposed pathways.*
- (8) **Additional information as requested by the Executive Officer under section 95490.5(c) pertaining** to station design and specifications, including documentation, in order to certify the Facility Nameplate Refueling Capacity, compliance with applicable codes and standards, and Station Performance Requirements.*

§ 95490.5 Provisions for Hydrogen Refueling Infrastructure.

(a) Eligibility.

- (1) Reporting Entities for Hydrogen as defined in section 95483(f)(1) are eligible to receive Hydrogen Infrastructure Investment Credits for Hydrogen Refueling Facilities registered under Section 95488.2(c) serving light, medium, and/or heavy-duty vehicles that comply with applicable codes and standards as well as either the Station Performance Requirements in the most recent Application Manual for Grant Funding Opportunity for Light Duty Vehicle Hydrogen Refueling Infrastructure under the Alternative Renewable

Fuel and Vehicle Technology Program from the California Energy Commission or similar manual adopted by the Air Resources Board if more recent or applied to Hydrogen Refueling Facilities serving medium or heavy-duty vehicles.

- (2) A registered Hydrogen Refueling Facility is eligible to receive Hydrogen Infrastructure Investment Credits in each reporting period provided that at least one of the following conditions is met in the reporting period: (i) the registered Hydrogen Refueling Facility is supplied with an average of 40% or more renewable source hydrogen during the reporting period; (ii) the average of all registered Hydrogen Refueling Facilities for the Fuel Reporting Entity are supplied with an average of 40% or more renewable source hydrogen during the reporting period; (iii) the registered Hydrogen Refueling Facility is supplied with hydrogen with an average of 75 gCO₂e/MJ carbon intensity or less during the reporting period; or (iv) the average of all registered Hydrogen Refueling Facilities for the Fuel Reporting Entity are supplied with hydrogen with an average of 75 gCO₂e/MJ carbon intensity or less during the reporting period.
- (3) Only the first 500 stations determined to be eligible may participate in this pathway.
- (4) Facility Nameplate Refueling Capacity can be any amount, but the maximum cap of Facility Nameplate Refueling Capacity that may be deemed eligible for the Hydrogen Infrastructure Pathway is 1,200 kg/d.

(b) General Requirements.

(1) *Credit Calculation.* Subject to the limitations in paragraph (c) below, the number of Hydrogen Infrastructure Investment Credits generated shall be equal to the (Facility Nameplate Refueling Capacity – Quantity of Hydrogen Sold) x (Credits per unit Hydrogen according to the Fuel Pathway Carbon Intensity Value certified for that Hydrogen Refueling Facility).

(A) Facility Nameplate Refueling Capacity in kilograms hydrogen per 24-hour day shall be the 24-hour fueling capacity as registered under Section 95488.2(c) and defined in applicable codes and standards or either the Station Performance Requirements in the most recent Application Manual for Grant Funding Opportunity for Light Duty Vehicle Hydrogen Refueling Infrastructure under the Alternative Renewable Fuel and Vehicle Technology Program from the California Energy Commission or similar manual adopted by the Air Resources Board if more recent or applied to Hydrogen Refueling Facilities serving medium or heavy-duty vehicles.

(B) The Fuel Pathway Carbon Intensity Value for use in the Hydrogen Infrastructure Pathway for each Hydrogen Refueling Facility registered under section 95488.2(c) shall be the same as the Fuel Pathway Carbon Intensity Value Certified for the/by the applicant for that Hydrogen Refueling Facility under sections 95488.1 (Fuel Pathway Classification), 95488.2 (Pathway Registration and Facility Registration), 95488.3 (Calculation of Fuel Pathway Carbon Intensities), 95488.4 (Lookup Table Fuel Pathway Application Requirements and Certification Process), 95488.5 (Tier 1 Fuel Pathway Application Requirements and Certification Process), 95488.6 (Tier 2 Fuel Pathway Application Requirements and Certification Process), 95488.7 (Fuel Pathway Application

Requirements Applying to All Classifications), 95488.8 (Special Circumstances for Fuel Pathway Applications), and Maintained under section 95488.9.

(C) Limitations on Credit Generation

- (i) *The number of* Hydrogen Infrastructure Investment Credits generated may not exceed the following percentage of the total possible credit generation from the Facility Nameplate Capacity:
 - Year 1: 100.0%
 - Year 2: 95.7%
 - Year 3: 91.4%
 - Year 4: 87.1%
 - Year 5: 82.9%
 - Year 6: 78.6%
 - Year 7: 74.3%
 - Year 8: 70.0%
 - Year 9: 65.7%
 - Year 10: 61.4%
 - Year 11: 57.1%
 - Year 12: 52.9%
 - Year 13: 48.6%
 - Year 14: 44.3%
 - Year 15: 40.0%
- (ii) A hydrogen refueling station will only generate Hydrogen Infrastructure Investment Credits in months where the station availability as reported in the Station Operational Status System (SOSS) was 90% or greater.
- (iii) A hydrogen refueling station will only generate Hydrogen Infrastructure Investment Credits so long as it remains open to the public for refueling. If a hydrogen refueling station is closed to service by a regulatory authority for any reason, it will cease to generate Hydrogen Infrastructure Investment Credits until such time as the situation has been remedied and the hydrogen refueling station is allowed to re-open.

(2) *Duration.* A party may generate credits through the Hydrogen Infrastructure Pathway for each registered Hydrogen Refueling Facility for 15 years from the date of application approval. The Hydrogen Infrastructure Pathway provision will remain in effect for at least 10 years; any change to this policy shall not be retroactive.

(A) If a party increases the Facility Nameplate Refueling Capacity for a registered Hydrogen Refueling Facility during the period it is generating credits through the Hydrogen Infrastructure Pathway, the party may update the registered Facility Nameplate Refueling Capacity under 95488.2(c) and, upon approval, the credit calculation under 95490.5(b)(1) will use the new Facility Nameplate Refueling Capacity.

(B) A party may generate credits through the Hydrogen Infrastructure Pathway for the incremental Facility Nameplate Refueling Capacity under 95490.5 (b)(2)(A) for 15 years from the date of registration approval under 95488.2(c).

(3) Fuel Quality

(A) The hydrogen refueling station, including the dispenser, shall dispense hydrogen that complies with the hydrogen quality requirements in CCR Title 4, Division 9, Chapter 6, Article 8, Sections 4180 and 4181 which adopts the Society of Automotive Engineers (SAE) International J2719: 2011 "Hydrogen Fuel Quality for Fuel Cell Vehicles."

(B) The hydrogen refueling station shall conform with the provisions of SAE International J2601: 2016, Fueling Protocols for Light Duty and Medium Duty Gaseous Hydrogen Surface Vehicles (www.sae.org), or the most recent version of the standard published and promulgated by the SAE.

(c) Applications. An application must contain the following materials:

- (1) The facility nameplate capacity as defined in Section 95490.5(b)(1)(A).
- (2) The fuel pathway carbon intensity value as defined in Section 95490.5(b)(1)(B).
- (3) A signed transmittal letter from the applicant attesting to the veracity of the information in the application packet. The transmittal letter shall be the original copy, be on company letterhead, be signed by an officer of the applicant with authority to attest to the veracity of the information in the application and to sign on behalf of the applicant.
- (4) All documents (including spreadsheets and other items not in a standard document format) that are claimed to contain confidential business information (CBI) must prominently display the phrase "Contains Confidential Business Information" above the main document title and in a running header. Additionally, a separate, redacted version of such documents must also be submitted. The redacted versions must be approved by the applicant for posting to a public LCFS web site. Specific redactions must be replaced with the phrase "Confidential business information has been deleted by the applicant." This phrase must be displayed clearly wherever CBI has been redacted. If the applicant claims that information it submits is confidential, it must also provide contact information required in California Code of Regulations, title 17, section 91011.
- (5) An applicant that submits any information or documentation in support of a proposed hydrogen infrastructure project must include a written statement clearly showing that the applicant understands and agrees that all information in the application not identified as confidential business information is subject to public disclosure pursuant to California Code of Regulations, title 17, sections 91000 through 91022 and the California Public Records Act (Government Code, §§. 6250 et seq.), and that information claimed by the applicant to be confidential might later be disclosed under section 91022 if the state board determines the information is subject to disclosure.
- (6) An application, supporting documents, and all other relevant data or calculation or other documentation, except for the transmittal letter described in section 95490(a)(3)(D), shall be submitted electronically, such as via e-mail or an online-based interface, unless the Executive Officer has approved or requested another format.

(d) Application Approval Process. An application must be approved by the Executive Officer before the hydrogen infrastructure project can generate credits under the LCFS regulation.

(1) After receipt of an application designated by the applicant as ready for formal evaluation, the Executive Officer shall advise the applicant in writing either that:

1. The application is complete, or
2. The application is incomplete, in which case the Executive Officer will identify which requirements have not been met. The applicant may submit additional information to correct deficiencies identified by the Executive Officer.

(2) After accepting an application as complete, the Executive Officer will post the application at <http://www.arb.ca.gov/fuels/lcfs/lcfs.htm>. Public comments will be accepted for 10 calendar days following the date on which the application was posted. Only comments related to potential factual or methodological errors may be considered. The Executive Officer will forward to the applicant all comments identifying potential factual or methodological errors. Within 30 business days, the applicant shall either submit revisions to its application to the Executive Officer, or submit a detailed written response to the Executive Officer explaining why no revisions are necessary.

(3) If the Executive Officer finds that an application meets the requirements set forth in section 95490.5 the Executive Officer will take final action to approve the hydrogen infrastructure project. The Executive Officer may prescribe conditions of approval that contain special limitations, recordkeeping and reporting requirements, and operational conditions that the Executive Officer determines should apply to the project. If the Executive Officer finds that an application does not meet the requirements of section 95490.5, the application will not be approved, and the applicant will be notified in writing, and the basis for the disapproval shall be identified.

(e) Reporting Actual Quantity of Hydrogen Sold. Each hydrogen refueling infrastructure project must submit to the Executive Officer the annual actual quantity of hydrogen sold every year.

(f) Recordkeeping. Each applicant that receives approval as a hydrogen infrastructure project must maintain records for the project. For such a project, the applicant must maintain records for at least five years. At a minimum, the following records must be kept:

- (1) The quarterly volume of hydrogen fuel actually sold.
- (2) The carbon intensity of the hydrogen fuel actually sold.
- (3) Any additional records that the Executive Officer requires to be kept in pursuant to section 95490.5, and records that demonstrate compliance with all special limitations and operating conditions specified pursuant to section 95490.5.