

This document has been prepared as part of the implementation project of Legal Pathways to Deep Decarbonization (Michael B. Gerrard and John C. Dernbach, eds. Environmental Law Institute [2019]) (LPDD). For background information on the project, see <https://lpdd.org>

MODEL FEDERAL STATUTE PROVIDING TAX CREDITS FOR PUBLIC HYDROGEN REFUELING STATIONS

__th CONGRESS
__ Session

H. R. /S. _____

To amend title 26, United States Code, to provide a tax credit for the provision of stationary hydrogen refueling infrastructure equipment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

____, 20__

Mr. /Mrs. ____ introduced the following bill; which was referred to _____

A BILL

Sec. 1. Short title.

This Act may be cited as the Hydrogen Fuel Cell Infrastructure Tax Credits Act.

Section 2. Tax credit for stationary hydrogen refueling infrastructure equipment.

Subpart B of part IV of subchapter A of chapter 1 of subtitle A of title 26 of the United States Code is amended by adding at the end the following:

“§30E. Qualified stationary hydrogen refueling infrastructure equipment.

- (a) CREDIT ALLOWED.--Subject to subsection (b), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the taxpayer's actual capital costs of stationary hydrogen refueling infrastructure equipment, which includes any shipping, installation, commissioning, or any other standard service costs included by the equipment supplier in the purchase of the equipment, and excludes any portion of capital expense costs funded by grants from other entities.
- (b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.--So much of the credit that would be allowed under subsection (a) for a taxable year that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year and not allowed under subsection (a).
- (c) DEFINITION OF STATIONARY HYDROGEN REFUELING INFRASTRUCTURE EQUIPMENT.--In this section, the term "stationary hydrogen refueling infrastructure equipment" means the equipment necessary for the storage and delivery of hydrogen fuel for light duty vehicles at a publicly accessible, retail station serving light duty vehicles.
- (d) SPECIAL RULES.--
- (1) REDUCTION IN BASIS.--For purposes of this subtitle the basis of any stationary hydrogen refueling infrastructure equipment for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.
- (2) ELECTION NOT TO TAKE CREDIT.--No credit shall be allowed under subsection (a) for stationary hydrogen refueling infrastructure equipment if the taxpayer elects not to have this section apply to such stationary hydrogen refueling infrastructure equipment.
- (3) RECAPTURE RULES.-- The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

- (e) REGULATIONS.--The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.
- (f) TERMINATION.--This section shall not apply to stationary hydrogen refueling infrastructure equipment placed in service after [December 31, 2030].”

Section 3. Stationary Hydrogen Refueling Station Infrastructure Credit in Calculation of Current Year Business Credit

Subsection (b) of section 38 of subpart D of part IV of subchapter A of chapter 1 of subtitle A of title 26 of the United States Code is amended—

- (a) in paragraph (32), by striking “plus”;
- (b) in paragraph (33), by striking the period at the end and inserting “plus”; and
- (c) by adding after paragraph (33) the following:

“(34) the tax credit for qualified stationary hydrogen refueling infrastructure equipment under section 30E.”

Section 4. Application.

The amendments made by this Act shall apply to taxable years beginning after [December 31, 2020].