
STATUTORY INSTRUMENTS

2023 No. 1419

The Hydrogen Production Revenue Support (Directions, Eligibility and Counterparty) Regulations 2023

Meaning of “eligible low carbon hydrogen producer”

2.—(1) In this regulation—

“standard compliant hydrogen” means hydrogen produced in accordance with the low carbon hydrogen standard;

“the low carbon hydrogen standard” means the document published by the Secretary of State in April 2023 entitled “UK Low Carbon Hydrogen Standard - Version 2” or such standard as may be from time to time published for the purposes of these Regulations by the Secretary of State⁽¹⁾.

(2) Where, pursuant to regulation 2(1) (low carbon hydrogen standard), the Secretary of State publishes a new or revised low carbon hydrogen standard for the purposes of these Regulations, the publication of the new or revised standard must include, or be accompanied by, a statement in writing that it is published to replace the previous version of the standard.

(3) A low carbon hydrogen producer is, for the purposes of Chapter 1 of Part 2 of the Energy Act 2023, an “eligible low carbon hydrogen producer”⁽²⁾ in relation to proposals it makes for the production of standard compliant hydrogen where—

- (a) the Secretary of State issues an invitation to low carbon hydrogen producers to apply for financial support (in the form of a hydrogen production revenue support contract) in the carrying out of proposals they make for the production of standard compliant hydrogen;
- (b) in response to that invitation, the low carbon hydrogen producer, in accordance with the requirements of the invitation, applies for such financial support in the carrying out of its proposals; and
- (c) the Secretary of State assesses that if the proposals are carried out, hydrogen produced as a result would be standard compliant hydrogen.

(4) A low carbon hydrogen producer is also an “eligible low carbon hydrogen producer” in respect of proposals made by it for the production of hydrogen, where—

- (a) before the commencement date, the Secretary of State issued an invitation to hydrogen producers to apply for financial support in the carrying out of proposals made by them for the production of hydrogen;
- (b) before the commencement date, the low carbon hydrogen producer applied in accordance with the terms of the invitation for financial support; and

(1) Paper copies of the UK Low Carbon Hydrogen Standard are available from the Department for Energy Security and Net Zero.
(2) The expression “low carbon hydrogen producer” is defined by section 65(7) of the Energy Act 2023 as “a person who carries on (or is to carry on) in the United Kingdom activities of producing hydrogen which in the opinion of the Secretary of State will contribute to a reduction in emissions of greenhouse gases”; “greenhouse gas” has the same meaning as section 92(1) of the Climate Change Act 2008.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(c) the Secretary of State assessed before or after the commencement date that the proposals made by the low carbon hydrogen producer are capable of meeting the first version of the UK Low Carbon Hydrogen Standard published in July 2022.

(5) But a low carbon hydrogen producer is not to be regarded as an eligible low carbon hydrogen producer if its proposal to produce standard compliant hydrogen involves the use of existing facilities without the carrying out of works to increase the capacity of those facilities to produce such hydrogen.

(6) A person who is an eligible low carbon hydrogen producer is not subsequently rendered ineligible merely on account of the publication of a new version of the low carbon hydrogen standard, but a direction issued by the Secretary of State pursuant to section 66(1) may require a hydrogen production revenue support contract to be offered on terms that require compliance with a later version of the standard.