
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1215 Session of
2023

INTRODUCED BY VITALI, MADDEN, FREEMAN, KHAN, SANCHEZ, KINSEY,
D. WILLIAMS, HOHENSTEIN, WEBSTER, FLEMING, PIELLI, HADDOCK,
STEELE, HILL-EVANS, GUENST, FRANKEL AND KRAJEWSKI,
MAY 23, 2023

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MAY 23, 2023

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in regional clean hydrogen hubs, further
11 providing for definitions, for eligibility and for
12 application and approval of tax credit, providing for
13 qualifying clean hydrogen uses and further providing for
14 guidelines and regulations.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 1751-L of the act of March 4, 1971
18 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended
19 by adding definitions to read:

20 Section 1751-L. Definitions.

21 The following words and phrases when used in this subarticle
22 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Carbon intensity ratio." The number of kilograms of carbon
3 dioxide equivalent emitted per kilogram of hydrogen produced.

4 The following shall apply:

5 (1) Carbon dioxide equivalent emissions shall include
6 all well to gate emission for the production of clean
7 hydrogen, including any leakage and all inputs used to
8 produce hydrogen, including electricity and natural gas.

9 (2) Chemicals included in the calculation of carbon
10 dioxide equivalent emissions shall include methane, carbon
11 dioxide and any other greenhouse gas emitted during the
12 hydrogen production process.

13 * * *

14 "Qualifying clean hydrogen production method." A method of
15 clean hydrogen production that meets at least one of the
16 following conditions:

17 (1) The clean hydrogen is produced within the carbon
18 intensity ratios, including any carbon dioxide equivalent
19 emissions offset using carbon capture and storage as
20 described in section 1753-L(a)(1) if using natural gas as
21 feedstock.

22 (2) The clean hydrogen is produced using electricity
23 from a zero-emission facility and meets the following
24 requirements:

25 (i) The electricity generated by the zero-emission
26 facility is generated in the same one-hour period as the
27 clean hydrogen is produced, as verified by hourly
28 renewable energy credits from the regional transmission
29 organization.

30 (ii) The zero-emission facility became operational

1 no earlier than 12 months prior to the start of operation
2 of the hydrogen production facility.

3 (iii) The zero-emission facility and the
4 electrolyzer are located within the same load balancing
5 area.

6 "Qualifying clean hydrogen use." A use of hydrogen at a
7 project facility in accordance with section 1753.1-L, as
8 determined by the Department of Environmental Protection.

9 "Zero-emission facility." A Tier I alternative energy source
10 as defined in section 2 of the act of November 30, 2004
11 (P.L.1672, No.213), known as the Alternative Energy Portfolio
12 Standards Act, except for biologically derived methane gas,
13 biomass energy and coal mine methane.

14 Section 2. Section 1752-L(a) of the act is amended by adding
15 paragraphs to read:

16 Section 1752-L. Eligibility.

17 (a) Demonstration.--In order to be eligible to receive a tax
18 credit, a company shall demonstrate the following:

19 * * *

20 (3) The end use of the clean hydrogen is a qualifying
21 clean hydrogen use.

22 (4) The clean hydrogen has been produced using a
23 qualifying clean hydrogen production method.

24 * * *

25 Section 3. Section 1753-L(a), (b) and (c) of the act, added
26 November 3, 2022 (P.L.1695, No.108), are amended to read:

27 Section 1753-L. Application and approval of tax credit.

28 (a) Rate.--The tax credit shall be equal to [any] one [or
29 more] of the following:

30 (1) \$0.81 per kilogram of clean hydrogen produced with a

1 carbon intensity ratio of 2.5 or less purchased from a
2 Regional Clean Hydrogen Hub within this Commonwealth and used
3 in manufacturing at the project facility by a qualified
4 taxpayer[.]; or

5 [(2) \$0.47 per unit of natural gas that is purchased and
6 used in manufacturing at the project facility by a qualified
7 taxpayer.]

8 (3) \$1.00 per kilogram of clean hydrogen produced with a
9 carbon intensity ratio of .45 or less purchased from a
10 Regional Clean Hydrogen Hub within this Commonwealth and used
11 in manufacturing at the project facility by a qualified
12 taxpayer.

13 (b) Application.--

14 (1) A qualified taxpayer may apply to the department for
15 a tax credit under this section.

16 (2) The application must be submitted to the department
17 by March 1 for the tax credit claimed for clean hydrogen or
18 natural gas purchased and used in manufacturing by the
19 qualified taxpayer at the project facility during the prior
20 calendar year.

21 (2.1) The application shall include documentation that
22 the following requirements have been met:

23 (i) The clean hydrogen was produced using a
24 qualifying clean hydrogen production method.

25 (ii) The end use of the clean hydrogen is a
26 qualifying clean hydrogen use.

27 (3) The application must be on a form required by the
28 department which shall include the following:

29 [(i) information required by the department to
30 document the amount of natural gas purchased and used in

1 manufacturing at the project facility;]

2 (ii) information required by the department to
3 document the amount of clean hydrogen to be purchased
4 from sources within the Regional Clean Hydrogen Hub in
5 this Commonwealth and used in manufacturing at the
6 project facility;

7 (iii) information required by the department to
8 verify that the applicant is a qualified taxpayer; [and]

9 (iii.1) certification from the Department of
10 Environmental Protection that the application meets the
11 requirements of this paragraph; and

12 (iv) any other information as the department deems
13 appropriate.

14 (c) Review and approval.--

15 (1) The department shall review the applications and
16 shall issue an approval or disapproval by May 1.

17 [(2) Upon approval, the department shall issue a
18 certificate stating the amount of the tax credit granted for
19 natural gas purchased and used in manufacturing at the
20 project facility in the prior calendar year.]

21 (3) Upon approval, the department shall issue a
22 certificate stating the amount of the tax credit granted for
23 clean hydrogen purchased from sources located in a Regional
24 Clean Hydrogen Hub located in this Commonwealth and used in
25 manufacturing at the project facility in the prior calendar
26 year.

27 * * *

28 Section 4. The act is amended by adding a section to read:

29 Section 1753.1-L. Qualifying clean hydrogen uses.

30 (a) Initial qualifying uses.--As of the effective date of

1 this section, the following shall constitute a qualifying clean
2 hydrogen use:

3 (1) clean hydrogen that is replacing the use of hydrogen
4 produced by a method other than a qualifying clean hydrogen
5 production method;

6 (2) as a feedstock for:

7 (i) fertilizer; or

8 (ii) low-carbon fuels to be used in aviation or
9 shipping;

10 (3) for use in a sector for which electrification is not
11 feasible, as determined by the Department of Environmental
12 Protection; or

13 (4) long-duration energy storage, if the clean hydrogen
14 achieves the carbon intensity ratio in section 1753-L(a) (3).

15 (b) Qualifying use determination.--No more than six months
16 following the effective date of this section and no less than
17 every two years thereafter, the Department of Environmental
18 Protection shall determine whether any additional uses meet the
19 definition of qualifying clean hydrogen use and promulgate
20 regulations accordingly.

21 (c) Prohibited uses.--The following shall not be considered
22 a qualifying clean hydrogen use:

23 (1) Any use of hydrogen, if the hydrogen is blended into
24 or distributed through natural gas distribution networks.

25 (2) Fuel for use in class 1 through class 7 vehicles as
26 class is defined under 40 CFR 1037.801 (relating to
27 definitions).

28 Section 5. Section 1760-L of the act, added November 3, 2022
29 (P.L.1695, No.108), is amended to read:

30 Section 1760-L. Guidelines and regulations.

1 [The department] (a) General rule.--The department shall
2 develop written guidelines for the implementation of this
3 subarticle. [The guidelines shall be in effect until the
4 department promulgates regulations for the implementation of the
5 provisions of this subarticle.]

6 (b) Contents.--The Environmental Quality Board shall
7 promulgate regulations that include:

8 (1) The determination and certification of qualifying
9 clean hydrogen production methods, including calculating the
10 carbon intensity ratio for clean hydrogen produced under this
11 subarticle.

12 (2) Criteria for the determination of what constitutes a
13 qualifying clean hydrogen use and a list of qualifying uses.

14 (3) Other regulations as necessary to implement this
15 subarticle.

16 Section 6. This act shall take effect in 60 days.