
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2521 Session of
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INTRODUCED BY WEBSTER, GUENST, HOHENSTEIN, KINKEAD, HILL-EVANS,
SANCHEZ, D. WILLIAMS AND DALEY, JULY 30, 2024

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JULY 30, 2024

AN ACT

1 Providing for duties of Environmental Quality Board, for
2 investigatory proceedings for clean hydrogen projects, for
3 regulations for clean hydrogen projects, for applications for
4 clean hydrogen projects and for duties of investor-owned
5 utilities; and establishing the Clean Hydrogen Tax Credit
6 Program.

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19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 CHAPTER 1

22 PRELIMINARY PROVISIONS

23 Section 101. Short title.

24 This act shall be known and may be cited as the Clean
25 Hydrogen Production Act.

26 Section 102. Scope of act.

27 This act relates to hydrogen production.

28 Section 103. Definitions.

29 The following words and phrases when used in this act shall
30 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Alternative energy source." Any of the following existing
3 and new sources for the production of electricity:

4 (1) Solar photovoltaic or other solar electric energy.

5 (2) Solar thermal energy.

6 (3) Wind power.

7 (4) Large-scale hydropower.

8 (5) Nuclear power.

9 "Board." The Environmental Quality Board of the department.

10 "Clean hydrogen." A form of hydrogen generated for energy
11 that satisfies any of the following:

12 (1) Hydrogen used in a project that has been determined
13 by the United States Department of Energy to demonstrably aid
14 achievement of the clean hydrogen production standard under
15 the Energy Policy Act of 2005 (Public Law 109-58, 11 Stat.
16 594) by mitigating emissions across the supply chain through
17 aggressive carbon capture, by measures to mitigate fugitive
18 methane emissions or by the use of clean electricity or other
19 technologies or practices approved by the United States
20 Department of Energy.

21 (2) Green hydrogen.

22 (3) Hydrogen that is produced through a process that
23 results in lifecycle greenhouse gas emissions rates that are
24 within the lifecycle greenhouse gas emission ranges specified
25 under 26 U.S.C. § 45V(b)(2)(C) and (D) (relating to credit
26 for production of clean hydrogen).

27 "Clean hydrogen project." A project that results in the
28 production of clean hydrogen by an investor-owned utility,
29 including a project involving a pipeline, electrolyzer,
30 environmental controls, monitoring equipment, a dedicated

1 renewable energy source for electrolysis, the purchase of clean
2 hydrogen from a third party and an upgrade to a turbine at an
3 electric generating station if the upgrade is part of a Federal
4 or State application for a regional clean hydrogen hub under 42
5 U.S.C. § 16161a (relating to regional clean hydrogen hubs).

6 "Commission." The Pennsylvania Public Utility Commission.

7 "Cumulative impacts." The incremental effects of a clean
8 hydrogen project on the environment, including effects on air
9 quality, water quality, water resource availability, climate and
10 public health, when added to the effects from other past,
11 present and reasonably foreseeable future development of any
12 type on the relevant area, including an airshed or watershed, as
13 determined by the board's regulations, or on a
14 disproportionately impacted community.

15 "Department." The Department of Environmental Protection of
16 the Commonwealth.

17 "Disproportionately impacted community." Any of the
18 following:

19 (1) A community that is in a census block group, as
20 determined in accordance with the most recent Federal
21 decennial census, where the proportion of households that:

- 22 (i) are low income is more than 40%;
23 (ii) identify as minority is more than 40%; or
24 (iii) are cost-burdened is more than 40%.

25 (2) A community identified or approved by a State agency
26 as a disproportionately impacted community if any of the
27 following apply:

- 28 (i) The community has a history of environmental
29 racism perpetuated through redlining, anti-Indigenous,
30 anti-immigrant, anti-Hispanic or anti-Black laws.

1 (ii) The community is impacted by multiple factors,
2 including socioeconomic stressors, disproportionate
3 environmental burdens, vulnerability to environmental
4 degradation and a lack of public participation, which may
5 act cumulatively to affect the health and environment and
6 contribute to persistent disparities.

7 "Green hydrogen." Hydrogen derived from an alternative
8 energy source that uses water as the source of the hydrogen.

9 "Greenhouse gas emission reduction goals." All of the
10 following:

11 (1) A reduction in emissions 50% to 52% below 2005
12 levels, covering all sectors and all gases, by 2030.

13 (2) One hundred percent carbon pollution-free
14 electricity by 2035.

15 (3) Net-zero emissions no later than 2050.

16 "Hard to decarbonize end use." The generation of heat of at
17 least 150 degrees Celsius for industrial purposes and the
18 addition as feedstock for industrial purposes, including the
19 manufacture of steel, ammonia, fertilizer or chemicals. The term
20 does not include the direct use of hydrogen for residential or
21 commercial heating.

22 "Investor-owned utility." A utility company owned and
23 operated by a private investor.

24 "Large-scale hydropower." The production of electric power
25 by harnessing the hydroelectric potential of moving water
26 impoundments, including pumped storage that does not meet the
27 requirements of low-impact hydropower.

28 "Lifecycle greenhouse gas emissions rate." Lifecycle
29 greenhouse gas emissions as defined in 26 U.S.C. § 45V(c)(1)(A)
30 and measured in accordance with applicable Internal Revenue

1 Service regulations or guidelines.

2 "Program." The Clean Hydrogen Tax Credit Program established
3 under section 701.

4 "Project facility." A facility located in this Commonwealth
5 that is owned by a qualified taxpayer which is part of a
6 regional clean hydrogen hub designated by the United States
7 Department of Energy under the Energy Policy Act of 2005.

8 "Qualified taxpayer." A company that satisfies all of the
9 following:

10 (1) Owns and operates a project facility located within
11 a regional clean hydrogen hub designated by the United States
12 Department of Energy authorized under the Energy Policy Act
13 of 2005.

14 (2) Has entered into a commitment letter under section
15 1752-L(b) of the act of March 4, 1971 (P.L.6, No.2), known as
16 the Tax Reform Code of 1971, to purchase clean hydrogen from
17 a regional clean hydrogen hub within this Commonwealth for
18 use in manufacturing at a project facility in this
19 Commonwealth that has been placed in service on or after
20 January 3, 2023.

21 (3) Has made a capital investment of at least
22 \$500,000,000 to construct the project facility and place the
23 project facility into service in this Commonwealth.

24 (4) Has created a minimum aggregate total of 1,200 new
25 jobs and permanent jobs.

26 (5) Has made good faith efforts to recruit and employ,
27 and to encourage a contractor or subcontractor to recruit and
28 employ, workers from the local labor market for employment
29 during the construction of the project facility.

30 (6) Has demonstrated that the new jobs created at the

1 project facility or for work covered under Subarticle F of
2 Article XVII-L of the Tax Reform Code of 1971, are paid at
3 least the prevailing minimum wage and benefit rates for each
4 craft or classification as determined by the Department of
5 Labor and Industry.

6 (7) The construction work to place a project facility
7 into service is performed in accordance with the act of March
8 3, 1978 (P.L.6, No.3), known as the Steel Products
9 Procurement Act.

10 "Qualified use." The use of clean hydrogen in this
11 Commonwealth for any of the following:

12 (1) A hard to decarbonize end use.

13 (2) The operation of a heavy-duty diesel vehicle.

14 (3) Aviation.

15 "Taxpayer." An individual, partnership, association,
16 society, company, corporation, estate, trust, trustee, receiver,
17 liquidator, fiduciary or other entity subject to or claiming
18 exemption from a tax administered by the Department of Revenue.

19 "Tier one greenhouse gas emissions rate." A qualified use of
20 hydrogen that results in lifecycle greenhouse gas emissions
21 rates that are within the range specified under 26 U.S.C. §
22 45V(b) (2) (D).

23 "Tier two greenhouse gas emissions rate." A qualified use of
24 hydrogen that results in lifecycle greenhouse gas emissions
25 rates that are within the range specified under 26 U.S.C. §
26 45V(b) (2) (C).

27 CHAPTER 3

28 DUTIES OF BOARD

29 Section 301. Investigatory proceedings for clean hydrogen
30 projects.

1 No later than 60 days after the effective date of this
2 section, the board shall initiate an investigatory proceeding to
3 consider all of the following:

4 (1) The potential for a clean hydrogen project operated
5 by an investor-owned utility, subject to regulation by the
6 board, to contribute to meeting Federal greenhouse gas
7 emission reduction goals, including lifecycle greenhouse gas
8 emissions rates, with a preference for qualified uses.

9 (2) The impact of a clean hydrogen project on the
10 emission of air pollutants, other than greenhouse gases, and
11 human health.

12 (3) Potential markets for clean hydrogen in this
13 Commonwealth.

14 (4) The impact of clean hydrogen production on water
15 quality and quantity in this Commonwealth.

16 (5) The potential impact of pipeline leakage and best
17 practices for mitigation.

18 (6) The potential for the development of clean hydrogen
19 to help create or sustain jobs in this Commonwealth,
20 including utility jobs.

21 (7) The cost, capabilities and market availability of
22 clean hydrogen technology, including a pipeline investment.

23 (8) The appropriate roles for an investor-owned utility
24 in the production, sale or use of clean hydrogen, including
25 considering whether costs may be recovered from ratepayers.

26 (9) The potential impact of investor-owned utility
27 investments in a clean hydrogen project on ratepayers,
28 including on bills, rates and rate stability, and options for
29 avoiding potential cross-subsidization and cost-shifting
30 across rate classes.

1 (10) Principles and requirements for tariffs for the
2 sale of clean hydrogen to a third party, including principles
3 and requirements to ensure that costs arising from the
4 development, production, transport and delivery of the clean
5 hydrogen under the tariffs are not borne by customers who do
6 not take service from the tariffs.

7 (11) The process and data necessary and available to
8 implement a requirement for the adoption of methods for all
9 of the following:

10 (i) The measurement of lifecycle greenhouse gas
11 emissions rates, including for hourly matching of
12 electricity used.

13 (ii) The tracking of the deployment of new renewable
14 energy resources or use of curtailed renewable energy to
15 meet electricity requirements for production of clean
16 hydrogen in the same load balancing area.

17 (iii) The board to determine when at least 200
18 megawatts of electrolyzers are operational in this
19 Commonwealth.

20 (12) The process and data necessary for an investor-
21 owned utility to conduct a cumulative impact analysis of a
22 clean hydrogen project and the process necessary to avoid
23 adverse cumulative impacts on disproportionately impacted
24 communities. For the purpose of this paragraph, the board may
25 consider any of the following:

26 (i) The time period when a cumulative impact
27 analysis should be conducted.

28 (ii) The geographical scope of a cumulative impact
29 analysis.

30 (iii) Whether the cumulative impact analysis should

1 be compared to alternative projects.

2 (13) Requirements for an application for a clean
3 hydrogen project in addition to the requirements specified
4 under sections 302(4), 306 and 307.

5 (14) Data or information necessary or available to
6 evaluate a clean hydrogen project against alternative
7 projects, including how to measure, track and report
8 lifecycle greenhouse gas emissions rates, cumulative impacts
9 and the cumulative impacts and individual impacts on jobs,
10 local economic benefits and water use.

11 (15) Opportunities to encourage nonutility production of
12 clean hydrogen in this Commonwealth, including opportunities
13 for an investor-owned utility to propose a tariff for the
14 sale of renewable energy that would otherwise be curtailed.

15 (16) Any other relevant issues that the board determines
16 necessary to consider for the purpose of this act.

17 Section 302. Regulations for clean hydrogen projects.

18 No later than two years after the effective date of this
19 section, unless the board files a notice with the commission
20 stating that the United States Department of Energy has extended
21 or otherwise altered the deadline regarding funding for a
22 hydrogen hub project, the board shall promulgate regulations to
23 implement all of the following:

24 (1) Unless the board determines that an investor-owned
25 utility should not develop a clean hydrogen project for cost
26 recovery from ratepayers, establish requirements for the
27 presentation of a clean hydrogen project to the board for the
28 board's approval.

29 (2) Establish requirements for lifecycle greenhouse gas
30 emissions rate accounting for a clean hydrogen project.

1 (3) Address the appropriate role of an investor-owned
2 utility in the production, sale and use of clean hydrogen,
3 including whether and how costs may be recovered from
4 ratepayers and appropriate treatment of revenues from clean
5 hydrogen sales.

6 (4) Address how an investor-owned utility may use
7 competitive solicitations in a clean hydrogen project and any
8 limitations for the use of competitive solicitations to
9 develop the clean hydrogen project.

10 (5) Establish a requirement that a planned or potential
11 use for the clean hydrogen in buildings or gas distribution
12 systems of an investor-owned utility be proposed to and
13 approved by the board.

14 (6) Address what is required in an application by an
15 investor-owned utility for a clean hydrogen project, subject
16 to sections 306 and 307, including all of the following:

17 (i) A comparison of a clean hydrogen project to
18 alternative projects, including an analysis of the costs
19 and benefits of the clean hydrogen project compared to
20 alternative projects.

21 (ii) A description of how the investor-owned utility
22 will measure and track the annual and cumulative
23 lifecycle greenhouse gas emissions rates and the emission
24 of other air pollutants in accordance with the
25 regulations promulgated under paragraph (2).

26 (iii) A description of how the investor-owned
27 utility will minimize the lifecycle greenhouse gas
28 emissions rates of the clean hydrogen project, conduct
29 leak detection throughout the life of the clean hydrogen
30 project and conduct a cumulative impact analysis of the

1 clean hydrogen project.

2 (iv) An assessment of the annual water volume that
3 will be used in the clean hydrogen project, including the
4 source of water to be used.

5 (v) A description of each planned use, including
6 potential end uses by the investor-owned utility's
7 customers, of the clean hydrogen produced through the
8 clean hydrogen project, with a preference for qualified
9 uses.

10 (vi) A description of each planned sale of clean
11 hydrogen to nonutility customers, with a preference for
12 qualified uses.

13 (vii) A description of the proposed method of cost
14 recovery for the clean hydrogen project, including
15 information regarding which rate classes will cover the
16 costs of the clean hydrogen project.

17 (viii) A description of the total revenue
18 requirement for the clean hydrogen project.

19 (ix) A description of the rate and bill impacts of
20 the clean hydrogen project.

21 (x) A description of each tariff for the sale of
22 clean hydrogen produced by the clean hydrogen project.

23 (xi) A proposal for the allocation of revenues
24 received from the sale of clean hydrogen produced by the
25 clean hydrogen project to nonutility customers among
26 customers and the investor-owned utility, including which
27 party bears the risk that the amount of revenue
28 anticipated from the clean hydrogen project is not
29 ultimately received.

30 (xii) A cumulative impact analysis framework.

1 (xiii) If the investor-owned utility plans to use a
2 competitive solicitation process as part of the clean
3 hydrogen project, a description of how the planned
4 competitive solicitation process will be used and in what
5 circumstances the process will be used.

6 Section 303. Additional requirements for clean hydrogen project
7 regulations.

8 (a) Requirements.--The board shall include all of the
9 following requirements in the regulations promulgated under
10 section 302:

11 (1) The matching of electrolyzer energy consumption with
12 electricity production on an hourly basis, if the technology
13 is available.

14 (2) Identifying the applicable energy source, if an
15 investor-owned utility is reporting the energy source as
16 resulting in zero emissions for clean hydrogen production,
17 and demonstrating that the electricity used to produce clean
18 hydrogen comes from renewable energy that would otherwise
19 have been curtailed or not delivered to load or from new zero
20 carbon generation that began production no more than 36
21 months before the start of the operations of the
22 electrolyzer.

23 (3) The deliverability of renewable energy used by the
24 electrolyzer into the same load balancing area as the
25 electrolyzer.

26 (b) Deadline.--The board shall promulgate the initial
27 regulations under section 302(2) no later than one year after
28 the effective date of this subsection, or no later than one year
29 after the development of hydrogen electrolyzers in this
30 Commonwealth exceeds 200 megawatts, whichever is earlier. The

1 board shall transmit a notice to the Legislative Reference
2 Bureau for publication in the next available issue of the
3 Pennsylvania Bulletin of the date when the development of
4 hydrogen electrolyzers in this Commonwealth exceeds 200
5 megawatts if necessary for the purpose of this subsection.

6 Section 304. Federal funding eligibility and marketing
7 mechanisms.

8 (a) Federal funding.--In developing the regulations
9 promulgated under section 302, the board shall consider the
10 potential for Federal funding for a clean hydrogen project and
11 that a clean hydrogen project implemented by an investor-owned
12 utility may be necessary to secure Federal funding.

13 (b) Marketing mechanisms.--In developing the regulations
14 promulgated under section 302, the board shall consider what
15 information and market mechanisms are necessary and available
16 for hydrogen producers to comply with the regulations. If the
17 Internal Revenue Service issues guidelines that meets or exceeds
18 the requirements in the regulations promulgated under section
19 302, the board shall promulgate regulations that comply with the
20 guidelines.

21 Section 305. Coordination with board.

22 If the board files the notice described in section 302 with
23 the commission, the board shall coordinate with the commission
24 to determine an appropriate effective date for the regulations
25 promulgated under section 302.

26 Section 306. Applications for clean hydrogen projects.

27 (a) Applications.--The board shall allow an investor-owned
28 utility to submit to the board a stand-alone application for a
29 clean hydrogen project for which an investor-owned utility has
30 applied for Federal funding as part of a hydrogen hub project at

1 any time before one year from the effective date of this
2 subsection, unless the board files a notice with the commission
3 stating that the United States Department of Energy has extended
4 or otherwise altered the deadline regarding funding for a
5 hydrogen hub project.

6 (b) Process.--The application process specified under
7 subsection (a) shall be consistent with the requirements under
8 section 302. An investor-owned utility seeking approval of a
9 clean hydrogen project under subsection (a) shall demonstrate
10 all of the following:

11 (1) A time-sensitive review of the investor-owned
12 utility's application is necessary based on the timing
13 requirements for obtaining necessary funding, not including
14 tax credits, from, or in a partnership with, a Federal or
15 State agency for the acquisition of necessary facilities.

16 (2) The funding or partnership cannot be accomplished
17 through a pending or future electric resource planning
18 process.

19 (c) Solicitation.--If the funding or partnership specified
20 under subsection (b), including an associated contract, award or
21 timing requirement, allows for a competitive solicitation as
22 part of the development of the clean hydrogen project, the board
23 may direct the investor-owned utility to issue a solicitation to
24 acquire the necessary projects or facilities for the clean
25 hydrogen project. The board shall review an approved competitive
26 solicitation process and bids received prior to the investor-
27 owned utility's acquisition of the necessary projects or
28 facilities for the clean hydrogen project. An investor-owned
29 utility that submitted an application under subsection (a) may
30 submit a bid in response to a solicitation under this

1 subsection.

2 Section 307. Consideration of applications.

3 (a) Consideration.--In reviewing, approving, denying or
4 amending an application submitted under section 306(a), the
5 board shall consider, at a minimum, the following:

6 (1) Whether it is in the public interest for an
7 investor-owned utility to invest in the elements of the clean
8 hydrogen project specified in the application.

9 (2) The potential contribution of the clean hydrogen
10 project in meeting the greenhouse gas emission reduction
11 goals, including lifecycle greenhouse gas emissions rates.

12 (3) The impacts of the clean hydrogen project compared
13 to alternative projects, including all of the following:

14 (i) Rate and bill impacts.

15 (ii) The impacts on rate stability.

16 (iii) Any other impacts identified by the board
17 under this subsection.

18 (4) The use of competitive solicitations.

19 (5) If the clean hydrogen project contemplates the sale
20 of clean hydrogen, the potential for cross-subsidization and
21 cost-shifting across rate classes.

22 (6) The impacts of the clean hydrogen project on the
23 utility workforce in this Commonwealth.

24 (7) The impacts of the clean hydrogen project on a
25 community's tax base and revenues.

26 (8) The uses of the clean hydrogen produced by the clean
27 hydrogen project, with a preference for qualified uses.

28 (9) The public health and safety impacts of the clean
29 hydrogen project.

30 (10) The availability of Federal funding for the clean

1 hydrogen project.

2 (b) Reviews.--The board, in collaboration with the
3 commission, shall review an application submitted under section
4 306(a) in accordance with applicable electric resource planning
5 requirements in 52 Pa. Code (relating to public utilities). The
6 board shall review, approve, deny or amend an application under
7 this subsection in accordance with this chapter and regulations
8 promulgated by the board. The board's determination of an
9 application shall include a plain language summary of the
10 board's determination.

11 (c) Disproportionately impacted communities.--In reviewing,
12 approving, denying or amending an application submitted under
13 section 306(a), if the clean hydrogen project is proposed to be
14 sited in an area that would affect a disproportionately impacted
15 community, the board shall weigh the applicant's cumulative
16 impact analysis and determine whether, on balance, the clean
17 hydrogen project will have a positive effect on the
18 disproportionately impacted community. The board shall deny an
19 application with a proposal that will have net negative
20 cumulative impacts on a disproportionately impacted community.

21 CHAPTER 5

22 DUTIES OF INVESTOR-OWNED UTILITIES

23 Section 501. Notice of applications for Federal funding.

24 Notwithstanding any other provision of law, an investor-owned
25 utility shall provide notice to the board of an application for
26 Federal funding as part of a hydrogen hub project, including all
27 of the following:

28 (1) Hydrogen hub project milestones.

29 (2) A description of each deadline for submission of
30 materials to support the application, including whether any

1 additional filings will be required.

2 (3) To the extent known or consistent with the
3 requirements or limitations of the United States Department
4 of Energy or any related joint memorandum of understanding or
5 other contract entered into by the investor-owned utility and
6 the Commonwealth, information regarding when funding awards
7 will be determined.

8 Section 502. Annual reports.

9 (a) Reports.--An investor-owned utility that operates a
10 clean hydrogen project approved by the board under Chapter 3
11 shall submit an annual report to the board with all of the
12 following information:

13 (1) The lifecycle greenhouse gas emissions rates from
14 the clean hydrogen project.

15 (2) The greenhouse gas emissions from the clean hydrogen
16 project.

17 (3) Any emission of other air pollutants from the clean
18 hydrogen project.

19 (4) The water use of the clean hydrogen project.

20 (5) Production volumes and sales of hydrogen, including
21 types of customers and uses.

22 (6) Project development and cost updates for projects
23 with cost recovery from ratepayers.

24 (7) Net cumulative impact updates for projects located
25 in disproportionately impacted communities.

26 (b) Production facility and use.--If a clean hydrogen
27 project includes the production and the use or consumption of
28 clean hydrogen by an investor-owned utility, the investor-owned
29 utility shall include the lifecycle greenhouse gas emissions
30 rates of the clean hydrogen project separately by each

1 production facility and use in each annual report under
2 subsection (a).

3 (c) Verification.--An investor-owned utility shall ensure
4 that each annual report under subsection (a) include information
5 that allows the board, in collaboration with the commission, to
6 make the verifications required under 52 Pa. Code § 1.36
7 (relating to verification).

8 CHAPTER 7

9 CLEAN HYDROGEN TAX CREDIT PROGRAM

10 Section 701. Tax credit program.

11 (a) Establishment.--The Clean Hydrogen Tax Credit Program is
12 established within the department for the purposes specified
13 under this chapter. Subject to the limitations specified under
14 subsection (b), for taxable years beginning on or after January
15 1, 2024, and ending December 31, 2032, a qualified taxpayer
16 shall be allowed a credit against the personal income tax
17 imposed under Article III of the act of March 4, 1971 (P.L.6,
18 No.2), known as the Tax Reform Code of 1971, in an amount equal
19 to any of the following:

20 (1) One dollar per kilogram of clean hydrogen used for a
21 qualified use that results in a tier one greenhouse gas
22 emissions rate in the taxable year.

23 (2) Thirty-three cents per kilogram of clean hydrogen
24 used for a qualified use that results in a tier two
25 greenhouse gas emissions rate in the income tax year.

26 (b) Conditions.--In order to claim a tax credit under the
27 program, a qualified taxpayer shall submit an application to the
28 department in accordance with section 702. If the department
29 determines that an applicant is not entitled to a tax credit
30 certificate for the tax credit, the department shall notify the

1 applicant of the department's disapproval in writing.

2 (c) Limitations.--

3 (1) For taxable years beginning on or after January 1,
4 2024, and ending December 31, 2025, and not before the board
5 promulgates the regulations under section 302(a), the
6 department may not approve a tax credit for a qualified
7 taxpayer indicating eligibility for a tax credit for an
8 amount exceeding \$1,000,000 in a taxable year.

9 (2) For taxable years beginning on and after January 1,
10 2026, and ending December 31, 2028, the department may not
11 approve a tax credit for a qualified taxpayer indicating
12 eligibility for a tax credit for an amount exceeding \$500,000
13 in a taxable year.

14 (3) For taxable years beginning on and after January 1,
15 2029, and ending December 31, 2032, the department may not
16 approve a tax credit for a qualified taxpayer indicating
17 eligibility for a tax credit for an amount exceeding \$250,000
18 in a taxable year.

19 (d) Availability of tax credits.--Each fiscal year,
20 \$10,000,000 in tax credits under the program shall be made
21 available to the department in accordance with this chapter.

22 (e) Allocation.--Tax credits under the program shall be
23 allocated by the department on a first-come, first-served basis.
24 Section 702. Applications for tax credit.

25 (a) Applications.--

26 (1) A qualified taxpayer may apply to the department for
27 a tax credit under the program in accordance with this
28 section.

29 (2) A qualified taxpayer must submit an application to
30 the department by March 1 for a tax credit under the program

1 claimed for the clean hydrogen used by the qualified taxpayer
2 at a project facility during the prior calendar year.

3 (3) An application shall be on a form required by the
4 department and include all of the following:

5 (i) Information required by the department to
6 document the amount of clean hydrogen used.

7 (ii) Information required by the department to allow
8 the department to make a determination that the use is a
9 qualified use.

10 (iii) Verification that the hydrogen passed to the
11 user at the point of sale is clean hydrogen.

12 (iv) Information required by the department to
13 verify that the applicant is a qualified taxpayer.

14 (4) Any other information as the department deems
15 appropriate.

16 (b) Database.--The department shall maintain a database of
17 any information deemed necessary by the department to evaluate
18 the effectiveness of a tax credit under the program and shall
19 provide the information to the Auditor General.

20 (c) Processing.--The department shall, in a sufficiently
21 timely manner to allow the Department of Revenue to process
22 returns claiming a tax credit under the program, provide the
23 Department of Revenue with an electronic report for the
24 preceding tax year listing each qualified taxpayer for which the
25 department approved the tax credit, including all of the
26 following information:

27 (1) Each qualified taxpayer's name.

28 (2) The amount of each tax credit specified in each tax
29 credit certificate provided to each qualified taxpayer.

30 (3) Each qualified taxpayer's Social Security number.

1 Section 703. Use of tax credits.

2 (a) Other tax credits.--Prior to claiming a new tax credit
3 under the program, a qualified taxpayer shall first use a prior
4 tax credit granted under the program against the qualified
5 personal income tax liability incurred in the taxable year for
6 which the tax credit was approved.

7 (b) Applicability.--A qualified taxpayer may apply a tax
8 credit under the program against up to 20% of the qualified
9 taxpayer's qualified personal income tax liability incurred in
10 the taxable year for which the tax credit was approved.

11 (c) Ineligibility for other benefits.--A qualified taxpayer
12 that has been granted a tax credit under the program shall be
13 ineligible for any other tax credit or tax benefit as defined in
14 section 1701-A.1 of the act of March 4, 1971 (P.L.6, No.2),
15 known as the Tax Reform Code of 1971.

16 Section 704. Carryover, carryback and refund.

17 A qualified taxpayer may not carry forward, carry back or
18 obtain a refund of all or a portion of an unused tax credit
19 granted to the qualified taxpayer under the program.

20 Section 705. Sale or assignment.

21 A qualified taxpayer may not sell or assign a tax credit
22 granted to the qualified taxpayer under the program.

23 Section 706. Pass-through entity.

24 (a) Election.--If a qualified taxpayer is a pass-through
25 entity, the qualified taxpayer may elect, in writing, according
26 to procedures established by the department, to transfer all or
27 a portion of a tax credit under the program to shareholders,
28 members or partners in proportion to the share of the qualified
29 taxpayer's distributive income to which the shareholders,
30 members or partners are entitled or in any other manner

1 designated by the qualified taxpayer in accordance with the
2 pass-through entity's governance documents and without regard to
3 how distributive income, losses or credits are allocated for
4 other tax purposes.

5 (b) Limitation.--The same unused tax credit under subsection
6 (a) may not be claimed by any of the following:

7 (1) The pass-through entity under subsection (a).

8 (2) A shareholder, member or partner of the pass-through
9 entity.

10 (c) Deadline.--A shareholder, member or partner of a pass-
11 through entity under subsection (a) may only use a tax credit
12 under the program during a taxable year for which the use of the
13 credit is authorized. The shareholder, member or partner of the
14 pass-through entity may not carry forward, carry back, obtain a
15 refund of or sell or assign the tax credit under the program.
16 Section 707. Reports to General Assembly.

17 No later than one year after the tax credits are first
18 awarded under the program and October 1 of each year thereafter,
19 the department shall submit a report on the tax credits to the
20 chairperson and minority chairperson of the Appropriations
21 Committee of the Senate, the chairperson and minority
22 chairperson of the Appropriations Committee of the House of
23 Representatives, the chairperson and minority chairperson of the
24 Finance Committee of the Senate and the chairperson and minority
25 chairperson of the Finance Committee of the House of
26 Representatives. The department shall include the names of the
27 qualified taxpayers that were awarded the tax credit and the
28 amount of the credit awarded to each qualified taxpayer under
29 the program.

30 Section 708. Expiration.

1 The authority of the department to approve a tax credit under
2 the program shall expire in taxable years beginning after
3 December 31, 2036.

4 CHAPTER 9

5 MISCELLANEOUS PROVISIONS

6 Section 901. Regulations.

7 The board shall promulgate regulations as necessary to
8 implement this act.

9 Section 902. Effective date.

10 This act shall take effect immediately.