Australian Government
Clean Energy Regulator

Consultation paper: Hydrogen Production Tax Incentive capacity equivalence legislative instrument

Feedback received on the proposed legislative instrument through this consultation will assist the CER in evaluating the proposed approach for assessing equivalency, identifying implementation issues and informing the final design of the legislative instrument.

Submissions are invited on the questions outlined in this paper and may be submitted to PGO@cer.gov.au.

Ensure that you complete the coversheet detailed on the consultation webpage[1] and include this when emailing submissions.

About this consultation

The Hydrogen Production Tax Incentive (HPTI) and the Product Guarantee of Origin (PGO) scheme work together to support Australia's hydrogen industry. The HPTI, established under Division 421 of the *Income Tax Assessment Act 1997*[2] (the ITA Act), helps to address market barriers to the deployment of commercial-scale renewable hydrogen production projects at this early stage in the industry's development. The PGO framework provides the certification and emissions accounting arrangements that underpin HPTI tax offset eligibility. Further background information is provided at the end of this document.

Hydrogen producers seeking to access the HPTI tax offset are required to obtain certification from the Clean Energy Regulator (CER). One of the matters the CER must assess is whether the relevant facility satisfies the capacity requirement set out in section 421-55(3)(b) of the ITA Act in determining whether production is eligible for certification.

A facility is required to have a capacity to produce hydrogen that is at least equal to that of an electrolyser with a nameplate capacity of 10 megawatts. This minimum capacity requirement reflects the Government's policy to accelerate and scale renewable hydrogen production. The capacity level was determined in consultation with industry.

[1] https://cer.gov.au/news-and-media/public-consultations/hydrogen-production-tax-incentive-capacity-equivalence-legislative-instrument
[2] https://www.legislation.gov.au/C2004A05138/latest/text/10

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In addition to hydrogen production by electrolysis, the HPTI legislation anticipates alternative hydrogen production pathways. Eligible pathways to make claims for the HPTI tax offset will adhere to the *Future Made in Australia (Guarantee of Origin) Legislation Amendment (Measures No. 1) Instrument 2026*[3] and any other future amendments. The Department of Climate Change, Energy, the Environment and Water (the Department) oversees the policy of the GO Scheme. Visit the Department's website for more information about the methodology work program for the GO Scheme[4].

HPTI is not limited to hydrogen by electrolysis, but excludes hydrogen produced by coal gasification and steam reformation of natural gas per section 421-55(3)(c)(i). As the GO scheme expands beyond the initial hydrogen by electrolysis pathway, other renewable hydrogen pathways could also be eligible for HPTI.

Section 421-60 provides that the CER may, by legislative instrument, prescribe how capacity to produce hydrogen is determined and the circumstances in which a facility is taken to have a capacity equivalent to a hydrogen electrolyser with a nameplate capacity of 10 megawatts, for the purposes of HPTI certification.

The legislative instrument is intended to establish a common basis for assessing applications for HPTI certification that is practical to administer and equitable across different hydrogen production pathways.

What this consultation is not about

This consultation is seeking views on the proposed legislative instrument and is centred around receiving feedback on the establishment of a means for determining and demonstrating the equivalence of hydrogen production capacity.

It is not open to the design features of the HPTI, including the minimum production capacity requirement, or any other matter established under section 421-A—Tax offset for hydrogen produced in Australia under the ITA Act 1997.

Proposed metric and benchmark for consultation

We are considering using a volume over time metric, measured in kilograms per hour (kg/hr), to certify hydrogen production across different technologies. This metric would be set at a benchmark of 150kg/hr.

This is a conservative representation of the baseline (minimum) capacity of a 10 megawatt hydrogen electrolyser.

The table below details how the metric will be used, per the requirements set out under the ITA Act:

Section	Requirement	Intent for administration
421-60(a)	Prescribe how capacity is to be expressed	• Use a kilogram per hour metric. • Measure output of hydrogen for the relevant pathway specified in the registered production profile.
421-60(b)	Prescribe how capacity is to be determined	• Use 150kg/hr as the benchmark measure.

[3] https://www.legislation.gov.au/F2026L01217/asmade/text
[4] https://www.dcceew.gov.au/energy/renewable/guarantee-of-origin-scheme

Section	Requirement	Intent for administration
		• Applications to certify a registered profile for the HPTI tax offset must demonstrate, at minimum, that the facility can produce hydrogen to meet the benchmark. • Specific requirements for demonstrating capacity will be detailed in the approved CER application form (the approved form). » The approved form will be the method by which hydrogen producers holding a registered PGO production profile can apply to receive certification for the purposes of the HPTI tax offset. » The approved form will be published on the Federal Register of Legislation[5] as part of the Notifiable Instrument.
421-60(c)	Prescribe circumstances where capacity is taken to be met	• The Legislative Instrument will include a provision to ensure that facilities using hydrogen by electrolysis that have a capacity to produce hydrogen that is not at least equal to an electrolyser with a nameplate capacity of 10 megawatts can apply using the 150kg/hr benchmark. » For example, a facility capable of producing 150kg of hydrogen (or more) per hour, regardless of electrolyser manufacturer or model. • This is optional for the hydrogen by electrolysis pathway. That is, a hydrogen producer using electrolysis may choose to use the 150kg/hr benchmark or 10-megawatt requirement as best fits their facility. • For all other hydrogen production pathways, the capacity can be met (or exceeded) using the 150kg/hr benchmark.

For the avoidance of doubt, meeting the production benchmark does not rule out other HPTI requirements, including those related to emissions intensity and grid matching. See further information on how to participate in the Hydrogen Production Tax Incentive[6] on the Clean Energy Regulator website.

How the benchmark was derived

The benchmark level is informed by analyses of current electrolyser production specifications and performance. This analysis spanned several electrolyser technologies and manufacturers to arrive at a representative baseline hydrogen production capacity of a standard 10 megawatt electrolyser. The amount of 150 kg/hr is a conservative, minimum-level of production, noting actual production capacity is expected to exceed this amount.

[5] https://www.legislation.gov.au/F2026L01217/asmade/text
[6] https://cer.gov.au/schemes/guarantee-origin-scheme/product-guarantee-origin/hydrogen-production-tax-incentive

An hourly hydrogen production threshold provides a technology-neutral equivalent to a 10 MW electrolyser. An hourly metric is independent of operating profile, feedstock, or technology pathway, enabling consistent comparison across production technologies such as electrolysis, gasification and pyrolysis of solid feedstocks (excluding coal), or other future eligible hydrogen production pathways. The metric is verifiable through engineering design parameters and avoids reliance on uncertain assumptions regarding utilisation rate, future operating hours, maintenance periods or capacity factors.

The CER is seeking stakeholder feedback on both the proposed kilogram per hour (kg/hr) metric and the proposed benchmark of 150 kg/hr to ensure they provide an appropriate basis for determining capacity equivalence under section 421-60 of the HPTI legislation.

Areas of consultation

The CER is seeking stakeholder feedback on 4 key elements of the proposed Legislative Instrument. These relate to:

1. whether a hydrogen production rate should be used for measuring capacity equivalence
2. whether 150kg/hr of hydrogen production is an appropriate benchmark
3. the information and evidence applicants should provide when demonstrating equivalence
4. whether there are any implementation considerations, risks or unintended consequences associated with the proposed approach.

> **Question 1**
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> **Should hydrogen production rate (kilograms per hour, kg/hr) be used as the metric to express hydrogen production capacity across different technologies?**

The CER proposes that the Legislative Instrument prescribes capacity to be expressed using hydrogen production rate measured in kilograms of hydrogen per hour (kg/hr). This approach would provide a technology-agnostic basis for comparing facilities that use different pathways to produce hydrogen.

We consider that a production rate metric would best allow for comparison of facilities that use different eligible production pathways, such as electrolysis, gasification and pyrolysis of solid feedstocks (excluding coal), or other future eligible hydrogen production pathways.

Rather than relying on technology-specific measures such as electrical input capacity, the focus would be on the quantity of hydrogen capable of being produced over time.

Stakeholders are invited to provide feedback on whether kg/hr is the most appropriate metric and whether alternative metrics should be considered.

Question 2

Is a benchmark of 150kg/hr of hydrogen production an appropriate measure for the baseline capacity of a standard 10 megawatt electrolyser?

The CER proposes that a production rate of 150kg/hr be used as the benchmark equivalent for the baseline capacity of a 10 megawatt electrolyser.

The CER considers that 150kg/hr represents an appropriate benchmark for consultation purposes. However, stakeholder feedback is sought on whether this threshold accurately reflects the production output of a commercial-scale 10 megawatt electrolyser or whether a different threshold would be more appropriate.

Question 3

A. **What information and documents are reasonably practicable to provide to the CER and best suited to demonstrate that a facility satisfies the proposed equivalence threshold?**

B. **Is there information or evidence specific to a particular pathway that best represents the production rate for that pathway?**

The scope of pathways for consideration currently includes, but is not limited to, hydrogen by electrolysis, and gasification and pyrolysis of solid feedstocks (excluding coal).

This Legislative Instrument will inform the content of the approved form to certify a registered production profile for HPTI which will be made publicly available. The form will ask applicants to provide information demonstrating that their facility is capable of producing hydrogen above the benchmark.

We are interested in understanding what information industry considers reasonable and practicable to provide, how accurately it represents production capacity and whether any additional guidance should be developed to support applicants.

CER's current view is that applicants would provide a combination of supporting evidence capable of substantiating the claimed production rate including, but not limited to:

- designed nameplate capacity
- commissioning, performance or acceptance testing reports
- metering data demonstrating the facility's production capability
- independent engineering assessments or certifications.

Note, the above list is not indicative of the final requirements of the approved form and is presented only as an example for the purpose of this consultation. CER will assess the submissions from this consultation and conduct further due diligence to ensure that the approved form is designed appropriately.

Question 4

Are there any implementation issues, risks or unintended consequences associated with the proposed approach?

The CER recognises that the Legislative Instrument may influence investment decisions, technology selection and project development activities across the hydrogen sector. We are therefore seeking feedback on whether the proposed approach could pose risks or create unintended barriers, distortions or unnecessary administrative burdens for participants.

Stakeholders are invited to provide views on any practical implementation considerations, including:

- issues relating to evidence requirements
- treatment of emerging technologies (for example production pathways not included in the GO Methodology Determination)
- equity across production pathways
- interactions with the GO Scheme
- any other matters that should be considered before finalising the legislative instrument.

The CER welcomes suggestions that both align with the objectives of the HPTI legislation to incentivise production of renewable hydrogen, and promote a streamlined, transparent and credible administrative process.

Submissions

Submissions are due by **11:59 pm AEDT on Monday 30 November 2026**. Any submissions received after this date will be considered at the discretion of the CER.

You can make a submission by emailing PGO@cer.gov.au.

Background

About HPTI

HPTI is a refundable tax offset available to eligible companies for renewable hydrogen produced in Australia between 1 July 2027 and 30 June 2040. Subject to meeting the legislative requirements, an eligible entity may be entitled to a tax offset of $2 per kilogram of eligible hydrogen produced.

The HPTI is jointly administered by the CER and the Australian Tax Office (ATO). The CER is responsible for administration of HPTI certification of production profiles among other functions and powers, while the ATO is responsible for administration of entitlement to the tax incentive through the tax system.

About the PGO Scheme

The PGO Scheme establishes a framework for certifying information about the production of products, including hydrogen. The Scheme supports transparency and market confidence by enabling consistent reporting of product attributes, including emissions intensity.

Under the Scheme, persons may register production profiles that represent a production facility, the production pathway used by that facility and other information relevant to the production of a product. Registered production profiles provide the basis for creation of PGO certificates, which record attributes of the products produced under those profiles.

Production pathways are set out in the *Future Made in Australia (Guarantee of Origin) Methodology Determination 2025*[7] which provides a consistent framework for calculating product emissions intensity.

For the purposes of the HPTI, the PGO framework of production profiles, production pathways and certificates is used by the CER and ATO to assess whether hydrogen may be eligible for the HPTI tax offset. Any eligible hydrogen claimed for the HPTI must be PGO certified.

Please note, this consultation does not cover the introduction of new production pathways to the GO Scheme. For enquiries related to PGO method development, please contact guaranteeoforigin@dcceew.gov.au.

[7] https://www.legislation.gov.au/F2025L01302/latest/text