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the Government Gazette

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**Our reference**
WJZ/ 45416524

**Information copy to**

**Annex(es)**
1

Processing/escalation instructions intended for the Se
Instructie voor behandeling/route t.b.v. het secretariaat

Date 13 February 2024

Concerns **Regulation of the Minister for Climate and Green Growth of , No WJZ/ 45416524, subsidising the construction and operation of large-scale hydrogen production facilities (Subsidy Scheme for large-scale production of fully renewable hydrogen via electrolysis)**

Manner of submission: Electronic

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**Regulation of the Minister for Climate and Green Growth of , No WJZ/ 45416524, subsidising the construction and operation of large-scale hydrogen production facilities (Subsidy Scheme for large-scale production of fully renewable hydrogen via electrolysis)**

The Minister for Climate and Green Growth,

Having regard to Articles 2(1)(introduction and a, b and h) and 3 of the Framework Act on subsidies granted by the Ministry of Economic Affairs and Climate Policy and the Ministry of Agriculture, Nature and Food Quality [Kaderwet EZK- en LNV-subsidies];

Hereby decrees the following:

## § 1. General

### Article 1.1 Definitions

For this Order, the following terms and definitions shall apply:

*connection:* connection as referred to in Article 1(1)(b) of the Electricity Act 1998;

*direct line:* direct line as referred to in Article 1(1)(ar) of the Electricity Act 1998;

*directly connected hydrogen production facility:* hydrogen production facility as referred to in Article 2.2(d), 1°;

*double-connected hydrogen production facility:* hydrogen production as referred to in Article 2.2(1)(d), 3°;

*electricity grid:* grid as referred to in Article 1(1)(i) of the Electricity Act 1998;

*amount of operating subsidy:* amount of the operating subsidy in accordance with Article 6.4;

*operating subsidy part:* subsidy part as referred to in Article 2.1 (b);

*guarantee of origin for renewable electricity:* guarantee of origin for renewable electricity as referred to in Article 1(1)(x) of the Electricity Act 1998;

*guarantee of origin for renewable hydrogen:* guarantee of origin for other gas from renewable sources, namely hydrogen, as referred to in Article 1(1) of the EU Renewable Energy Directive Implementation Act for Guarantees of Origin;

*investment subsidy amount:* amount of the investment subsidy part in accordance with Articles 5.2 and 5.3;

*investment subsidy part:* subsidy part as referred to in Article 2.1(a);

*Minister:* Minister for Climate and Green Growth;

*Network operator:* network operator as referred to in Article 1(1)(k) of the Electricity Act 1998;

*networked hydrogen production facility:* hydrogen production facility as referred to in Article 2.2(d), 2°;

*electrolyser rated electric input power:* maximum direct current power in MW of

the electrolyser specified by the supplier that can be used under nominal conditions for the production of hydrogen during continuous operation at the start of the service life;

*undertaking:* any entity, regardless of legal form or method of financing, that carries out economic activity;

*production price of fully renewable hydrogen:* production price of fully renewable hydrogen in accordance with Article 6.11;

*Directive (EU) 2018/2001:* Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 2018);

*Delegated Regulation (EU) 2023/1184:* Commission Delegated Regulation (EU) 2023/1184 of 10 February 2023 supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing a common Union methodology providing for detailed rules for the production of renewable liquid and gaseous transport fuels of non-biological origin (OJ L 157/11);

*Delegated Regulation (EU) 2023/1185:* Commission Delegated Regulation (EU) 2023/1185 of 10 February 2023, supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing a minimum threshold for greenhouse gas emission savings from recycled carbon fuels and specifying the methodology for assessing greenhouse gas emission savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels (OJ L 157/20);

*hydrogen production facility:* production facility for the production of hydrogen, consisting of an electrolyser and the peripheral equipment necessary for the production of hydrogen.

## § 2. Subsidy award criteria

### Article 2.1 Awarding a subsidy

1. The Minister may, on application, grant a subsidy to an undertaking consisting of:

a. a subsidy for the construction of a hydrogen production facility; and
b. a subsidy part for the production of fully renewable hydrogen with that hydrogen production facility.

2. The subsidy is granted only if the Minister has opened the possibility of applying for a subsidy, by setting a subsidy ceiling and a period for submitting the application.

3. When the subsidy ceiling is opened, it is possible to determine the maximum percentage of the subsidy ceiling per subsidy recipient.

### Article 2.2 Criteria

1. The subsidy may only be awarded only:

a. the rated electric input power of the electrolyser is not less than 0.5 MW;
b. the fully renewable hydrogen is produced by electrolysis from water to oxygen and hydrogen;
c. the greenhouse gas emission savings of the total produced fully renewable hydrogen and hydrogen that is not fully renewable is at least 70 % over the period covered by the operating subsidy part in case hydrogen that is not fully renewable is also produced; and
d. the hydrogen production facility:

1°. is connected by a direct line to a facility for the generation of renewable electricity from wind or solar energy;
2°. is connected to the electricity grid; or
3°. is connected both to a facility for the generation of renewable electricity from wind or solar energy, by a direct line, and to the electrical grid, by a connection.

2. When demonstrating compliance with paragraph 1(c), Delegated Regulation (EU) 2023/1185 shall apply mutatis mutandis to the subsidy recipient.

**Article 2.3 Fully renewable hydrogen**

1. If the subsidy is provided for a directly connected hydrogen production facility, the hydrogen produced shall be considered as fully renewable for the purposes of this Scheme if the subsidy recipient complies with Articles 3 and 8 of Delegated Regulation (EU) 2023/1184.

2. If the subsidy is granted to a networked hydrogen production facility, the hydrogen produced is considered to be fully renewable for the purposes of this Scheme if the subsidy recipient:

   a. complies with Articles 4 to 8 and 11 of Delegated Regulation (EU) 2023/1184, where the renewable power purchase agreements referred to in Articles 5, 6 and 7 of that Regulation cover the supply of renewable electricity from wind or solar energy; and
   b. has proof of cancellation of guarantees of origin for renewable electricity.

3. If the subsidy is provided for a double-connected hydrogen production facility, the hydrogen produced is considered to be fully renewable for the purposes of this Scheme if the subsidy recipient:

   a. complies with Articles 3 to 8 and 11 of Delegated Regulation (EU) 2023/1184, where the renewable power purchase agreements referred to in Articles 5, 6 and 7 of that Regulation cover the supply of renewable electricity from wind or solar energy; and
   b. has proof of cancellation of guarantees of origin for renewable electricity.

4. The guarantees of origin for renewable electricity referred to in paragraph 2(b) and paragraph 3(b) are issued for generating facilities for the production of renewable electricity from wind or solar energy for which renewable power purchase agreements as referred to in paragraph 2(a) and (3)(a) have been signed.

**§ 3. General provisions on the subsidy application and related decision making**

**Article 3.1 Division of subsidy ceiling**

1. The Minister shall divide the subsidy ceiling into the order of ranking of applications for subsidies that are not rejected pursuant to Article 3.11.

2. The ranking shall take place on the ranking amount where the lower the ranking amount of an application is, the higher the application is ranked.

3. If the subsidy ceiling would be exceeded by two or more applications with the same ranking amount, the Minister determines the ranking of these applications by drawing lots.

**Article 3.2 Ranking amount EUR/MW**

1. The ranking amount referred to in Article 3.1 is the requested subsidy amount

in EUR per MW of nominal electric input power of the electrolyser.

2. The ranking amount shall be calculated using the formula:

   *ranking amount = (investment subsidy amount in EUR + investment subsidy previously provided in EUR + maximum operating subsidy amount in EUR + previously provided operating subsidy in EUR): rated electric input power of the electrolyser.*

**Article 3.3 Application details**

1. A subsidy application shall be submitted to the Minister using a tool provided by the Minister.

2. The application shall contain at least the following:

   a. the name, address and account number of the subsidy applicant;
   b. the address, or failing this the land register designation, where the hydrogen production facility shall be installed;
   c. the period to be covered by the operating subsidy, comprising a minimum of 5 and a maximum of 10 consecutive, whole years;
   d. a project plan containing:
      1°. the activities for the realisation of the hydrogen production facility with at least three milestones and a timetable with the planned start date of operations and the planned date on which the hydrogen production facility is to be completed;
      2°. a budget, by component, of the eligible costs referred to in Article 5.4.

3. At the time of the application, the applicant for subsidy shall indicate whether it derives from the system of tradable greenhouse gas emission allowances referred to in Title 16.2 of the Environmental Management Act.

4. In the case of a networked or double-connected hydrogen production facility, the application shall be accompanied by a written offer from a supplier or future supplier to supply renewable electricity to the subsidy applicant for at least the first 3 years from the planned date on which the hydrogen production facility is to be realised, enabling the subsidy applicant to comply with Articles 3 to 8 and 11 of Delegated Regulation (EU) 2023/1184.

5. The written offer referred to in paragraph 4 shall contain at least:

   a. an indication of the generating installation or installations from which the renewable electricity will be produced;
   b. the period during which the renewable electricity is supplied;
   c. the annual amount of renewable electricity that will be supplied to the subsidy applicant;
   d. the price of the renewable electricity to be supplied or the manner in which that price is determined;
   e. the period of validity of the offer.

**Article 3.4 Subsidy parameters details**

1. In the case of an application for a subsidy, the following shall be indicated:

   a. the rated electric input power of the electrolyser;
   b. the amount of the investment subsidy;
   c. the maximum amount of the operating subsidy;
   d. the total amount of fully renewable hydrogen to be produced in kg during the period that will be covered by the operating subsidy part;
   e. the total amount of hydrogen to be produced that is not fully renewable in

kg during the period that is to be covered by the operating subsidy part;
f. the production price of fully renewable hydrogen.

2. The application shall be accompanied by the technical specification of the supplier of the electrolyser indicating the rated electric input power of the electrolyser.

**Article 3.5 Environmental permits**

1. The application for a subsidy shall be accompanied by a copy of the environmental permit for the environmentally harmful activity, in so far as it is necessary for the hydrogen production facility pursuant to Article 5.1(2)(b) of the Environment and Planning Act and Article 3.72(1)(b) and 3.73(1) the Environment Activities Decree.

2. If there is a restricted area activity in relation to the hydrogen production facility in a state works as referred to in the annex to the Environment and Planning Act, the application for a subsidy shall be accompanied by a copy of the environmental permit for the restricted area activity required for an installation in a waterworks pursuant to Article 5.1(2)(f), 5° of the Environment and Planning Act.

3. In the case of a directly connected hydrogen production facility or a double-connected hydrogen production facility with a production facility for the production of renewable electricity from wind or solar energy on land, the application shall be accompanied by a copy of the environmental permit for a construction activity necessary for the production facility for the production of renewable electricity from wind or solar energy pursuant to Article 5.1(2)(a) of the Environment and Planning Act, unless that production facility is already constructed on the date on which the application was submitted.

4. If an environmental permit as referred to in paragraphs 1 or 2 has not yet been granted at the time of submission of the subsidy application, the application for a subsidy shall be accompanied by a copy of the application for that environmental permit and proof that that application has been processed.

**Article 3.6 Feasibility study**

1. A subsidy application shall be accompanied by a feasibility study.

2. The feasibility study shall contain at least the following:

a. a description of the hydrogen production facility;
b. a hydrogen yield calculation;
c. a financing plan for the investment in the hydrogen production facility;
d. understanding of the subsidy applicant’s equity;
e. an operating calculation with the expected costs and revenues of the hydrogen production facility;
f. a justification of the expected sales and sales price of the fully renewable hydrogen to be produced during the period covered by the operating subsidy part;
f. a letter of intent from a financier to finance the investment in the hydrogen production facility, if:
   1°. the equity, other than the investment subsidy part requested, is less than 20 % of the cost of the investment in the hydrogen production facility; or
   2°. the subsidy applicant has submitted more than one application within the period set by the Minister for applying for a subsidy, and the equity capital, unlike the investment subsidy part applied for, is less than 20 % of the total cost of the investments in the hydrogen production facilities.

3. The hydrogen yield calculation referred to in paragraph 2(b) shall include:

a. the expected amount of fully renewable hydrogen to be produced per calendar year in the period covered by the operating subsidy part and the expected amount of hydrogen that is not fully renewable per calendar year in the period covered by the operating subsidy part;
b. the energy conversion efficiency from electricity to hydrogen at the start of life span;
c. the availability in time of the hydrogen production facility;
d. the availability of the amount of renewable electricity to be used;
e. the expected degradation of the electrolyser.

4. The operating calculation referred to in paragraph 2(e) shall include:

a. specification of the investment costs for each component of the hydrogen production facility;
b. an overview of the costs and benefits of operating the hydrogen production facility;
c. a calculation of the financial return of the investment over the lifetime of the hydrogen production facility, assuming a lifetime of no more than 15 years.

**Article 3.7 Consent of the site owner**

1. If an application for a subsidy concerns a hydrogen production facility on a site of which the subsidy applicant is not the owner, the application shall be accompanied by the consent of the owner or owners for the installation and operation of the hydrogen production facility on that site during the period for which the subsidy is requested.

2. The owner consent shall be submitted using a tool provided by the Minister.

**Article 3.8 Electricity transmission indication**

1. An application for a subsidy for a networked hydrogen production facility or a double-connected hydrogen production facility shall be accompanied by a statement from a network operator on the availability of transport capacity for the hydrogen production facility.

2. The declaration shall be submitted using a tool provided by the Minister.

3. The certificate was issued no more than 4 months prior to the submission of the application.

**Article 3.9 Consent for authorised representatives to provide information**

1. An application for a subsidy shall be accompanied by a declaration that the subsidy applicant agrees that the information on the hydrogen production facility provided with the application and the information on the hydrogen production facility included in the decision granting the subsidy is provided by the Minister to:

a. the non-subordinate authorised by the Minister on the basis of Article 74 of the Electricity Act 1998; and
b. the non-subordinate authorised on the basis of Article 3(4) of the EU Renewable Energy Directive Implementation Act for guarantees of origin.

2. The application shall be accompanied by a declaration that the subsidy applicant agrees that the measurement data provided to the Minister, as referred to in Article 5 or Article 9 of the Order on Guarantees of Origin and Certificates of Origin, shall be used by the Minister for the purposes of the calculations under this Order.

**Article 3.10 Subsidy application decision timeframe**

1. The Minister decides on an application for a subsidy within 13 weeks of the last day of the period set by the Minister for applying for the subsidy.

2. This 13-week period may be extended once for up to 13 weeks.

**Article 3.11 Grounds for refusal**

1. The Minister shall reject an application for a subsidy if:

   a. the application does not meet the provisions of this Order;
   b. the electrolyser has previously been in use;
   c. the period requested for the operating subsidy part is shorter than 5 or more than 10 consecutive, whole years;
   d. it is unlikely that the hydrogen production facility will be put into service within 5 years of the granting of the subsidy;
   e. it is unlikely that the hydrogen production facility is in operation throughout the period covered by the operating subsidy part;
   f. it is unlikely that the construction or operation of the hydrogen production facility:
      1°. is practicable;
      2°. is technically feasible;
      3°. is financially feasible;
      4°. is economically feasible;
   g. it is unlikely that the requirements to qualify hydrogen as fully renewable as referred to in Article 2.3 are met;
   h. it is unlikely that the greenhouse gas emission savings of the total produced renewable hydrogen and hydrogen that is not fully renewable is at least 70 % during the period covered by the operating subsidy part, iif hydrogen is also to be produced that is not fully renewable;
   i. the applicant entered into irreversible investment commitments for construction of the hydrogen production facility before the application submission date;
   j. started with the activities set out in the project plan before the date of submission of the application;
   k. it is likely that the hydrogen generating installation would be realised or operated without significant delay without the subsidy;
   l. the financial feasibility of the establishment or operation of the hydrogen production facility depends on other subsidies to be obtained;
   m. a subsidy for the production of hydrogen with the hydrogen production facility has already been granted on the basis of the Decree on stimulation of sustainable energy production and climate transition;
   n. a subsidy has already been granted under this Scheme or under the Subsidy Scheme scaling up fully renewable hydrogen through electrolysis for the realisation of the hydrogen production facility and the production of fully renewable hydrogen with that production facility;
   o. the requested subsidy amount in EUR per kg of fully renewable hydrogen to be produced is higher than EUR 9/kg.

2. The requested subsidy amount in EUR per kg of fully renewable hydrogen to be produced, as referred to in paragraph 1(o), shall be calculated using the formula:

   *subsidy amount requested = (investment subsidy amount requested in EUR: requested total amount of fully renewable hydrogen to be produced in kg in the period to be covered by the operating subsidy part) + (requested production price of fully renewable hydrogen in EUR per kg – the lower limit of the correction amount per kg of hydrogen set by the Minister).*

**Article 3.12 Test of appropriate incentive**

The Minister may deduct from the subsidy granted under this Scheme any public support already received or received or to receive in the future for the construction of the hydrogen production facility or for the production of fully renewable hydrogen if such aid results in the total public support granted to the hydrogen production facility exceeding the amount of State aid granted under a treaty.

**Article 3.13 Transparency clause**

The Minister shall publish, within 6 months of the granting of the subsidy, the information referred to in Section 3.2.1.14 (58), preamble and (b) of the Guidelines on State aid for climate, environmental protection and energy 2022 (OJ 2022/C 80/01).

**§ 4. Obligations for the subsidy recipient**

**Article 4.1 Fully renewable hydrogen certificate and ≥ 70 % greenhouse gas emission savings**

1. The subsidy recipient is in possession of a valid certificate from the date of entry into service of the hydrogen production facility until the date of the subsidy decision determining that:

    a. the design of the hydrogen production facility and the metering and administration of the electricity and hydrogen flows enable production of demonstrably renewable hydrogen;
    b. the hydrogen to be produced qualifies as fully renewable as referred to in Article 2.3; and
    c. if the hydrogen production facility is also to produce hydrogen that is not fully renewable, the greenhouse gas emission savings of the total of fully renewable hydrogen to be produced and hydrogen that is not fully renewable together is at least 70 % in accordance with Article 2.2(c).

2. If two or more voluntary national or international systems for renewable fuels of non-biological origin have been recognised by the European Commission on the basis of Article 30(4) of Directive (EU) 2018/2001, the certificate has been drawn up with one of these voluntary national or international Schemes.

3. If fewer than two voluntary national or international systems for renewable fuels of non-biological origin have been recognised by the European Commission on the basis of Article 30(4) of Directive (EU) 2018/2001, the certificate is drawn up with a recognised voluntary national or international system for renewable gaseous fuels of non-biological origin or with a voluntary national or international system for renewable fuels of non-biological origin that passes through the adoption procedure by the European Commission, as referred to in Article 30(4) and (5) of that Directive.

**Article 4.2 Declaration of fully renewable hydrogen and ≥ 70 % greenhouse gas emission reduction**

1. The subsidy recipient shall send to the Minister, within 5 months of the end of each calendar year, a declaration from the date of entry into operation of the hydrogen production facility until the determination of the subsidy, stating that the fully renewable hydrogen produced meets the requirements for full renewable referred to in Article 2.3 and that, if the hydrogen production facility also produces hydrogen that is not fully renewable, the greenhouse gas emission savings of the total fully renewable hydrogen produced and hydrogen that is not fully renewable is at least 70 %, as referred to in Article 2.2(1)(c).

2. The declaration shall be submitted using a tool provided by the Minister.

3. The declaration shall contain at least the information referred to in Article 8 of Delegated Regulation (EU) 2023/1184 for the previous calendar year.

4. The subsidy recipient shall have the declaration verified and signed by the body issuing the certificate referred to in Article 4.1(1).

**Article 4.3 implementation and commissioning period**

1. The subsidy recipient shall complete the hydrogen production facility as soon as possible after the decision to grant the subsidy and shall put the hydrogen production facility into service as soon as possible after completion and at the latest within 5 years of the decision to grant the subsidy.

2. The subsidy recipient shall realise the hydrogen production facility in accordance with the project plan included in the application.

3. The subsidy recipient has used the hydrogen production facility according to the data contained in the subsidy application until the date of the decision determining the subsidy.

4. The subsidy recipient shall inform the Minister without delay of the date on which it enters into service hydrogen production facility.

5. As soon as it is likely that any delay in the completion or commissioning of the hydrogen production facility will occur, the subsidy recipient shall inform the Minister without delay.

**Article 4.4 Dispensation**

1. The Minister may, at the prior request of the subsidy recipient, grant, in the event of a delay, an exemption for up to 2 years from the obligation to construct or put into service the hydrogen production facility within 5 years of the decision to grant a subsidy, as referred to in Article 4.3(1).

2. The Minister may, at the prior request of the subsidy recipient, grant an exemption from the obligation referred to in Article 4.3(2) or (3), in the event of substantial changes to the construction of hydrogen production facilities in relation to the project plan or the entry into service of the hydrogen production facility in relation to the data contained in the application for subsidy.

3. The Minister may attach conditions to this waiver.

**Article 4.5 Hydrogen production facility in the Netherlands**

The hydrogen production facility is maintained in the Netherlands, the territorial sea or within the Dutch exclusive economic zone.

**Article 4.6 Progress report on hydrogen production facility construction**

1. The subsidy recipient shall submit a progress report to the Minister on the progress of the realisation of the hydrogen production facility once every calendar year until the date of completion of the hydrogen production facility.

2. The progress report shall include:

    a. a description of the experiences during construction of the hydrogen production facility;
    b. data on the progress of the activities included in the project plan, including the achievement of milestones and timetable.

**Article 4.7 Final report on completion of hydrogen production facility**

1. The subsidy recipient shall submit a final report on the realisation of the hydrogen production facility within 13 weeks of the date on which the hydrogen production facility is put into operation.

2. The final report shall be accompanied by:

    a. a description of the experience with the implementation of the water production facility;
    b. a detailed statement of the eligible costs incurred and paid per component as provided for in the budget, calculated and supported by supporting documents;
    c. a statement of revenue received, including subsidies already granted under a Scheme other than under this Scheme and other aid for the realisation of the hydrogen production facility;
    d. a product to be determined by an auditor as referred to in Article 1 of the Auditing Professional Act.

3. The product to be determined, as referred to in paragraph 2(d), shall be drawn up using a model provided by the Minister and shall in any case include an indication of the investment costs incurred and paid, a statement of the other subsidies and aid granted and information on the deductible turnover tax referred to in Article 1 of the 1968 Turnover Tax Act.

4. In the case of a networked hydrogen production facility or a double-connected hydrogen production facility, the final report shall be accompanied by wind or solar renewable power purchase agreements for the electricity that will be used for the production of fully renewable hydrogen during the first 3 years.

5. The final report shall be submitted using a tool provided by the Minister.

**Article 4.8 Overview of costs and benefits test appropriate incentives**

1. The subsidy recipient shall, within 1 year of the date on which the hydrogen production facility is put into service or at the request of the Secretary of State, send the Minister, in order to determine whether the total public support granted exceeds what is permitted by the State’s obligations under a treaty referred to in Article 3.12:

    a. an indication of the costs incurred for the construction of the hydrogen production facility;
    b. a statement of income already received, including subsidies already granted under a Scheme other than under this Scheme and other aid, for the construction or operation of the hydrogen production facility;
    c. a statement of the revenue to be received, including subsidies to be granted under a Scheme other than under this Scheme and other aid, for the construction or operation of the hydrogen production facility;
    d. an overview of the other costs and benefits of operating the hydrogen production facility;
    e. a product to be determined by an auditor as referred to in Article 1 of the Auditing Professional Act.

2. The information referred to in paragraph 1 shall be provided using a means made available by the Minister, in which case the product to be determined, as referred to in subsection (e), shall be drawn up using a model provided by the Minister and shall in any case include an indication of the investment costs incurred and paid, a statement of the other subsidies and aid granted and information on the deductible turnover tax referred to in Article 1 of the 1968 Turnover Tax Act.

3. The Minister may, at the request of the recipient of the subsidy, extend the 1-

year period referred to in paragraph 1 once for a period of at least 6 weeks and a maximum of 3 months.

4. The subsidy recipient shall notify the Minister of any changes to the income already received and to be received, as referred to in paragraph 1(b) and (c), which may affect the amount of the total public support granted.

**Article 4.9 Hydrogen production progress report**

1. The subsidy recipient shall submit a progress report to the Minister on the progress of hydrogen production every 2 calendar years from the date on which the hydrogen production facility is put into operation until the determination of the subsidy.

2. This progress report shall include:

    a. a description of the experiences during production of hydrogen with the hydrogen production facility;
    b. data on the renewability of the electricity used to produce the hydrogen;
    c. monitoring data on hydrogen production and on the maintenance and eventual failure of the hydrogen production facility.

**Article 4.10 Dissemination of knowledge**

The Minister may use the progress reports referred to in Articles 4.6 and 4.9 and the final report referred to in Article 4.7 for the public dissemination of the non-business secrets and information acquired.

**Article 4.11 Other data provision**

1. The beneficiary of the subsidy shall immediately notify the Minister in writing of an application to the court for a declaration of bankruptcy, for suspension of payments to him or for the application of the debt relief Scheme for natural persons.

2. The recipient of the subsidy shall immediately inform the Minister in writing as soon as it is likely that the obligations attached to the subsidy will not be met, or will not be fulfilled in full or in due time.

3. If income or avoided costs arise for the subsidy applicant or no longer result from the tradable greenhouse gas emission allowance Scheme referred to in Title 16.2 of the Environmental Management Act, they shall immediately notify the Minister in writing.

4. On request, the subsidy recipient shall provide the Minister with all other documents, data or information needed for a subsidy decision.

**Article 4.12 Evaluation obligation**

The recipient of the subsidy shall, up to 5 years after the decision determining the subsidy, cooperate in an assessment by the Minister of the effectiveness and effects of the subsidy, in so far as he or she can reasonably be required to cooperate.

**§ 5. Investment subsidy part**

**Article 5.1 Scope of Section 5**

This Section applies to the investment subsidy component.

**Article 5.2 Method of calculating the investment subsidy amount**

The amount of the investment subsidy part is the sum of the eligible costs for the realisation of the hydrogen production facility referred to in Article 5.4.

**Article 5.3 Maximum investment subsidy amount**

The amount of the investment subsidy is:

a. up to 80 % of the sum of the eligible costs for the realisation of the hydrogen production facility referred to in Article 5.2;
b. if a subsidy has already been awarded for the operation of the hydrogen production facility under a different Scheme, up to 80 % of the sum of the eligible costs for the realisation of the hydrogen production facility referred to in Article 5.2, less the subsidy already granted, except that in the case of a negative calculation, the investment subsidy is EUR 0.00.

**Article 5.4 Eligible costs for the realisation of hydrogen production facility**

1. Only the costs necessary for the realisation of the hydrogen production facility are eligible costs.

2. Costs which may in any case be eligible are the costs of investments in:

   a. land and buildings;
   b. machinery and equipment, including batteries with a maximum output of 1 MW per MW of rated electrical input power of the electrolyser and a maximum storage capacity of 2 MWh per MW of rated electric input power of the electrolyser;
   c. a storage device of the amount of hydrogen in kg that the hydrogen production facility can produce over a period of 24 hours;
   d. materials or devices;
   e. intangibles;
   f. construction of infrastructure to connect the hydrogen generating facility to the electricity grid and hydrogen transport lines;
   g. a hydrogen compression installation with a final pressure less than or equal to 70 bar.

3. The following costs are not eligible:

   a. costs of turnover tax which may be deducted by the applicant for the subsidy;
   b. costs incurred by the subsidy applicant prior to the submission of the subsidy application.

**Article 5.5 Provision of advance payments**

1. The Minister shall make advance payments ex officio.

2. Advance payments shall be made on a quarterly basis for the costs incurred in that quarter, whereby:

   a. the first advance payment is made within 2 weeks of the start of the activities; and
   b. the subsequent advance payments are made within 2 weeks of the first day of the quarter.

3. The start of the activities referred to in paragraph 2(a) is:

   a. if, at the planned starting date referred to in point 3.3 (d) of the paragraph

2(d), 1°, the decision to award the subsidy has already been sent: the start date in the project plan;

b. if, by the scheduled starting date, the decision to award the subsidy has not yet been sent: the day after the decision was sent.

4. By way of derogation from paragraph 2, no advance payment shall be made if a copy of the environmental permits referred to in Article 3.5(1) and (2), has not been received.

**Article 5.6 Method of calculating advance payments**

1. An advance shall be equal to 90 % of the amount of investment subsidy eligible in the quarter, and shall be calculated in accordance with the methodology set out in the Annex.

2. If the eligible costs incurred between two milestones deviate by more than 25 % from eligible costs included in the budget, the subsidy recipient shall notify the Minister without delay.

**Article 5.7 Adjustments to advance payments**

1. Within 13 weeks of receipt of the final report referred to in Article 4.7, the Minister shall update all the advances paid on the basis of the final report.

2. If it proves that all the advances granted are less than 100 % of the amount of the investment subsidy, the Minister shall pay the amount underpaid to the beneficiary within 6 weeks of the decision to adjust the advance payment.

3. If it proves that all the advances granted exceed 100 % of the amount of the investment subsidy, the Minister shall recover the overpaid advance.

**§ 6. Operating subsidy part**

**Article 6.1 Scope of Section 6**

This Section applies to the operating subsidy component.

**Article 6.2 Details of subsidy award decision**

The decision to grant a subsidy shall in all cases state:

a. the period covered by the operating subsidy part;
b. the production price of fully renewable hydrogen;
c. the total amount of fully renewable hydrogen to be produced in kg during the period covered by the operating subsidy part;
d. the annual average amount of fully renewable hydrogen to be produced in kg, calculated using the formula: *annual average amount of fully renewable hydrogen to be produced = total amount of fully renewable hydrogen to be produced in kg referred to in subsection (c): period covering the operating subsidy part in calendar years*;
e. the monthly average amount of fully renewable hydrogen to be produced in kg, calculated using the formula: *monthly average amount of fully renewable hydrogen to be produced = annual average amount of fully renewable hydrogen to be produced referred to in subsection (d): 12*.

**Article 6.3 Start date of period of the operating subsidy part**

1. The period covered by the operating subsidy part shall start from the date of entry into service of the hydrogen production facility.

2. By way of derogation from paragraph 1, the period covered by the operating subsidy for a hydrogen production facility for which a subsidy has been awarded

on the basis of Article 3.27.2 of the National EAF and LNG Subsidies Order following a subsidy application submitted in the period from 1 September 2022 at 09.00 to 17.00 on 14 September 2022, shall start at the time when, after the construction of that installation, the start-up and testing of the installation has been completed with the aim of detecting and eliminating remaining defects in the installation and in the operation of the installation.**Article 6.4 Method of calculating the amount of the operating subsidy**

1. The amount of the operating subsidy shall compensate for all or part of the difference between the production price of fully renewable hydrogen and the average cost of producing hydrogen with a steam-reforming facility.

2. The amount of the operating subsidy shall be the sum of the amounts per calendar year calculated over the period covered by the operating subsidy part.

3. The amount per calendar year referred to in paragraph 2 shall be calculated using the formula:

   *amount per calendar year = (quantity of fully renewable hydrogen produced in kg in that calendar year, including the fully renewable hydrogen identified pursuant to Article 6.7 from a previous calendar year, up to the annual average amount of fully renewable hydrogen to be produced, including the fully renewable hydrogen to be produced under Article 6.6) x (production price of fully renewable hydrogen – final correction amount for that calendar year*).

4. Where the production price of fully renewable hydrogen in a calendar year is lower than the final corrective amount fixed for that calendar year, an amount of EUR 0.00 shall be taken into account for that calendar year.

5. If the period covered by the operating subsidy part starts at a date later than 1 January or ends at a date earlier than 31 December, the amount per calendar year for the first calendar year or the last calendar year of that period shall be a proportional part of that calendar year.

**Article 6.5 Maximum amount of operating subsidy**

The maximum operating subsidy amount shall be calculated using the formula:

*the total amount of fully renewable hydrogen to be produced in kg in the period covered by the operating subsidy part x (production price of fully renewable hydrogen – the lower limit of the correction amount per kg of hydrogen set by the Minister).*

**Article 6.6 Banked underproduction**

1. If, in a calendar year, less than the annual average amount of fully renewable hydrogen to be produced than the annual average amount of fully renewable hydrogen to be produced, the non-produced kg of fully renewable hydrogen shall be added to the annual average amount of fully renewable hydrogen to produce in a subsequent calendar year, in order to cover the production deficit of fully renewable hydrogen and the missed subsidy.

2. If the period covering the operational part starts at a date later than 1 January, for the first calendar year, the non-produced kg of fully renewable hydrogen for a proportionate part of the first calendar year shall be added to the annual average amount of fully renewable hydrogen to be produced in a subsequent calendar year.

3. If it is plausible that, at the end of the period covered by the operating part of the subsidy, less than the total amount of fully renewable hydrogen to be

produced will have been produced, the Minister shall, at the prior request of the subsidy recipient, extend the period by a maximum of one year.

4. The extension referred to in paragraph 3 shall end after the expiry of the extension or when the total amount of fully renewable hydrogen to be produced, whichever is the earlier.

**Article 6.7 Banked overproduction**

If more kg of fully renewable hydrogen has been produced in a calendar year than the annual average amount of fully renewable hydrogen to be produced, that excess kg up to an amount not exceeding 25 % of the annual average amount of fully renewable hydrogen to be produced shall be considered to be produced in a subsequent calendar year, if in that subsequent calendar year the amount of fully renewable hydrogen produced in kg is lower than the annual average amount of fully renewable hydrogen to be produced, including the fully renewable hydrogen to be produced under Article 6.6.

**Article 6.8 Provision of advance payments**

1. The Minister shall provide an advance once a year ex officio.

2. The advance payment shall be calculated using the following formula:

   *advance = 100 % x (annual average amount of fully renewable hydrogen to be produced) x (production price of fully renewable hydrogen – provisional correction amount for that calendar year).*

3. At the request of the subsidy recipient, the kg of fully renewable hydrogen not produced in a previous calendar year, as referred to in Article 6.6, may be added to the annual average quantity of fully renewable hydrogen to be produced, as referred to in paragraph 2.

4. If the period covered by the operating subsidy part starts at a date later than 1 January or ends at a date earlier than 31 December, the provisional advance payment for the first calendar year or the last calendar year of that period shall be a proportionate part of that calendar year.

**Article 6.9 Providing monthly amounts**

1. The advance shall be paid in monthly amounts.

2. The monthly amount shall be calculated using the formula:

   *monthly amount = 80 % x (annual average amount of fully renewable hydrogen to be produced) x (production price of fully renewable hydrogen – provisional correction amount for that calendar year): 12.*

3. At the request of the subsidy recipient, the kg of fully renewable hydrogen not produced in a previous calendar year, as referred to in Article 6.6, may be added to the annual average quantity of fully renewable hydrogen to be produced, as referred to in paragraph 2.

4. If the period covered by the operating subsidy part starts at a date later than 1 January or ends at a date earlier than 31 December, the monthly amount for the first calendar year or the last calendar year of that period shall be a proportional part of that calendar year.

5. The Minister may recalculate the monthly amount if:

a. the subsidy recipient has submitted a request for exemption for material changes as referred to in Article 4.4(2);
b. the subsidy recipient has failed to comply with the obligation to transmit data for determining whether total official support provided exceeds what is permitted by the State's obligations under a treaty referred to in Article 3.12;
c. for 2 months or more, at least 50 % less fully renewable hydrogen has been or will be produced than the monthly average amount of fully renewable hydrogen to be produced;
d. in a calendar year, at least 20 % less fully renewable hydrogen has been or will be produced than the annual average amount of fully renewable hydrogen to be produced;
e. the Minister has not received the measurement data referred to in Article 5 or Article 9 of the Regulation on guarantees of origin and certificates of origin for more than one month after the first monthly amount has been granted.

**Article 6.10 Adjustments to advance payments**

1. Within 7 months of the end of the calendar year, the Minister shall adjust the advance in accordance with the method of calculation referred to in Article 6.4(3), (4) and (5), on the basis of:

   a. the amount of fully renewable hydrogen produced in that calendar year, determined in accordance with the method of calculation referred to in Article 6.4(3) and (5).
      1°. covered by guarantees of origin for renewable hydrogen, converted into kg of hydrogen with the conversion factor of 0.03932 MWh/kg; and
      2°. for which it has been established, on the basis of the declaration referred to in Article 4.2, that hydrogen is fully renewable; and
   b. the definitive correction amount fixed for that calendar year.

2. If it proves that the total monthly amounts paid in a calendar year are less than the adjusted advance for that calendar year, the Minister shall forward the amount underpaid to the beneficiary within 6 weeks of the decision to adjust the advance payment.

3. If it proves that the total monthly amounts paid in a calendar year exceed the adjusted advance in that calendar year, the Minister shall deduct the overpayment from the next monthly amount to be provided and then from as many monthly amounts as necessary to offset the overpaid advance in full. If monthly amounts are no longer due, the overpayment shall be recovered.

**Article 6.11 Fully renewable hydrogen production price**

1. The production price of fully renewable hydrogen shall consist of the sum of the eligible costs of the construction of the hydrogen production facility not applied for and the costs of producing fully renewable hydrogen.

2. The production price of fully renewable hydrogen shall not exceed the result of the calculation using the formula:

   *production price of fully renewable hydrogen in EUR per kg = (eligible costs in EUR for the realisation of the hydrogen production facility for which no investment subsidy part has been provided + costs of producing fully renewable hydrogen in EUR in the period covered by the operating part): total amount of fully renewable hydrogen to be produced in kg during the period covered by the operating subsidy part*.

**Article 6.12 Final correction amount**

1. The Minister shall set the final correction amount for the preceding calendar

year before 1 April of each year.

2. The final correction amount shall consist of the sum of:

    a. the average cost of producing hydrogen with a steam reforming plant over the preceding calendar year;
    b. the value of guarantees of origin for renewable hydrogen converted into EUR per kg of hydrogen with the conversion factor of 0.03932 MWh/kg; and
    c. the revenues or avoided costs for the subsidy recipient resulting from the greenhouse gas emissions allowance trading system, as per Title 16.2 Wm.

3. If the final correction amount is lower than the lower limit of the correction amount per kg of hydrogen set by the Minister, that amount shall be calculated instead of the average costs.

**Article 6.13 Provisional correction amount**

1. Before 1 November each year, the Minister shall fix the provisional correction amount for the following calendar year.

2. The provisional correction amount shall consist of the sum of:

    a. the average cost of producing hydrogen with a steam reforming plant in the period from 1 September to 31 August preceding the calendar year for which the provisional correction amount is fixed;
    b. the value of guarantees of origin for renewable hydrogen converted into EUR per kg of hydrogen with the conversion factor of 0.03932 MWh/kg; and
    c. the revenues or avoided costs for the subsidy recipient resulting from the greenhouse gas emissions allowance trading system, as per Title 16.2 Wm.

3. If the provisional correction amount is lower than the lower limit per kg of hydrogen laid down by the Minister, that amount shall be calculated instead of the average costs.

4. By way of derogation from the paragraph 1, for the subsidy of advances, the Minister shall fix a provisional correction amount for production facilities for which the possibility of submitting an application for a subsidy has been opened pursuant to Article 2.1(2) in order to determine the advance payment for those production facilities if those production facilities are not yet subject to provisional correction amounts under paragraph 1.

**Article 6.14 Renewable Power Purchase Agreements**

In the case of a networked hydrogen production facility or a double-connected hydrogen production facility, the Minister shall only  an advance if the final report referred to in Article 4.7 is accompanied by the wind or solar renewable power purchase agreements for the electricity to be used for the production of fully renewable hydrogen during the first 5 years.

**Article 6.15 Renewable hydrogen guarantee of origin account**

The Minister shall grant the first advance only after the subsidy recipient for renewable hydrogen guarantees of origin has an account as referred to in Article 3 of the EU Renewable Energy Directive Implementation Act for Guarantees of Origin.

**§ 7. Subsidy calculation**

**Article 7.1 Subsidy calculation application**

1. The subsidy recipient shall submit an application for the determination of the

subsidy within 6 months of the date of expiry of the period covered by the operating subsidy.

2. The application shall be submitted through a tool provided by the Minister.

**Article 7.2 Determination of the subsidy**

1. The Minister shall determine the amount of the subsidy within 13 weeks of receipt of the application for the determination of the subsidy.

2. If the application for determining the subsidy has not been submitted within the 6-month period referred to in Article 7.1(1), the Minister shall determine the subsidy ex officio after the expiry of that period.

3. If the application for the determination of the subsidy has been submitted before the final correction amount referred to in Article 6.12 has been fixed for the last year in which eligible production took place, the period of 13 weeks referred to in paragraph 1 shall be suspended and the period shall end thirteen weeks after the date on which the final correction amount was established.

**§ 8. Final provisions**

**Article 8.1 Entry into force and expiry date**

1. This Order shall enter into force on the day following the date of its publication in the Government Gazette.

2. This Order shall expire 5 years after its entry into force, with the proviso that it shall continue to apply to subsidies awarded before that date.

**Article 8.2 Citation title**

This Order shall be referred to as the: Subsidy Scheme for large-scale production of fully renewable hydrogen via electrolysis.

This Order and the explanatory notes shall be published in the Government Gazette.

The Minister for Climate and Green Growth,

**Annex to Article 5.6 (Method of calculation of advances on investment subsidy part)**

An advance payment for the investment subsidy part shall be calculated as follows:

1. The starting point is the period between the milestones as set out in the project plan. The start of the activities referred to in Article 5.5(3) shall be considered as the first milestone.
2. The period between two milestones within the quarter for which an advance payment is granted shall be defined. The eligible costs in the period between those two milestones shall be eligible for advance payments in that quarter.
3. Where the period between two milestones covers more than one quarter, the eligible costs of that period between those two milestones shall be apportioned proportionally over the relevant quarters.

## EXPLANATORY NOTES

### I. General

### 1. Objective and rationale

In the Government Vision for Hydrogen (Parliamentary Documents II 2019/2020, 32 813, No 485), the Government announced that it would scale up hydrogen production by electrolysis in the Netherlands. This includes cost reduction of green hydrogen. Green hydrogen is hydrogen that has been produced $CO_2$-free using renewable electricity (electrolysis). A major scaling up of hydrogen production through electrolysis is needed to achieve cost reduction. The Climate Agreement sets an ambition for scaling up hydrogen production through electrolysis to around 3 to 4 GW installed capacity in 2030. In the Government Vision, the Government underlines the importance of hydrogen as an indispensable component for a climate-neutral Netherlands, and the importance of scaling up electrolyser capacity for achieving climate goals and creating new, sustainable earning capacity. Production of renewable hydrogen in the volumes needed in the future will require large-scale electrolysis facilities, both at home and abroad. Because electrolysis is not yet available at the planned scale, the Netherlands must support the development of new electrolysis projects. The present Subsidy Scheme for large-scale production of fully renewable hydrogen through electrolysis (hereinafter: the Scheme) is intended to do so. The Scheme responds to the hydrogen ambitions set out in the Climate Agreement (Parliamentary Papers II 2018/2019; 32 813, No 342) and the Cabinet's climate goals (Parliamentary Papers II 2021/2022, 32 813, No 974and Parliamentary Papers II 2021/2022, 32 813, No 1049). The Scheme aims at scaling up hydrogen production through electrolysis, using the renewable energy that meets the requirements laid down in the regulatory framework under Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 2018, 328) (hereinafter: Renewable Energy Directive). This concerns in particular requirements in Delegated Regulations (EU) 2023/1184 and (EU) 2023/1185.

Financial support for electrolysis projects is already possible from other Subsidy Schemes, the most important of which are the Subsidy Scheme scaling up fully renewable hydrogen production through electrolysis (hereinafter: OWE), the Demonstration of Energy and Climate Innovation (hereinafter: DEI+), the Renewable Energy Transition Scheme (hereinafter: HER+) and the Decree on Incentivising Sustainable Energy Production and Climate Transition (hereinafter: SDE++ Decree). The OWE can be seen as a precursor to the Scheme. The OWE has been able to support smaller projects – up to 50 MW. DEI+ is open to pilot and demonstration projects and is an investment subsidy. The SDE++ Decree is an operating subsidy. From 2020 onwards, the SDE++ Decree provides for a subsidy for hydrogen from electrolysis. The HER+ is an investment subsidy for innovative projects that lead to sustainable energy production at lower costs. VEKI is an investment subsidy for $CO_2$-abatement measures in industry with a payback period of more than 5 years.

Although the above mentioned subsidy instruments scale up hydrogen production through electrolysis, they are not sufficient to reach the target of 3 to 4 GW of electrolyser capacity by 2030. DEI+, HER+ and VEKI are not suitable for large-

scale projects. In the case of large-scale projects, the operational costs – and revenues generated – of hydrogen production form an important part of the operating calculation, so that investment aid alone is not sufficient. Therefore, a conclusive operating budget requires operating aid. Under the SDE++ Decree, the subsidy intensity allowed is not high enough for large-scale projects, as it does not cover the entire estimated unprofitable top. Calculations by the Environmental Planning Agency3 (hereinafter: PBL) indicate that the subsidy intensity for hydrogen production via electrolysis is higher than the maximum subsidy intensity assumed under the SDE++ Decree.

The Netherlands participates in an Important Project of Common European Interest (hereinafter: IPCEI) for hydrogen. An IPCEI is an integrated European project consisting of different national projects of companies and/or research institutions from various EU Member States that complement one another, offer synergy and contribute towards strategic European goals. These include European goals such as sustainability, digitisation, sovereignty and a level playing field for businesses. There are several IPCEIs in which the Netherlands participates, including the hydrogen IPCEI. The IPCEI hydrogen consists of a number of what are known as waves. Each wave covers a different part of the hydrogen value chain (hydrogen production, import/transport, consumption in various sectors). The second wave of IPCEI hydrogen concerns hydrogen production by electrolysis, and aims to increase electrolyser capacity in the coming years. The participation of the Netherlands in the IPCEI hydrogen is not sufficient for achieving the target of 3 to 4 GW of electrolyser capacity by 2030.

Despite the instruments mentioned above, electrolysis projects are not currently sufficiently developed due to substantial unprofitable top-ups and high technological and financial risks. A market Consultation from January 2021 demonstrates that, in addition to operating support to cover the price difference between renewable hydrogen and conventional fossil alternatives, market participants also need investment support to substantially reduce upfront financing costs. These higher financing costs appear to be due in particular to project risks: the innovative nature of electrolysis technology and uncertainties surrounding the development of both hydrogen reduction and electricity costs lead financiers to demand a higher risk premium for their investment. Experience with IPCEI hydrogen and the OWE shows that companies experience uncertainties when making an investment decision. A higher investment subsidy can help reduce uncertainties at the start of the project period. In addition, operating subsidies are needed because the revenues from the sale of hydrogen are still uncertain, while electricity costs are particularly high in the first years. At the same time, operating subsidies may influence the moments at which an electrolyser produces hydrogen, which may lead to unwanted high hydrogen production at times when there is little supply of renewable electricity (within the limits of what is allowed to qualify as fully renewable hydrogen). These developments may argue in favour of increasing investment subsidies and reducing operating subsidies. A market consultation from October 2023 reveals that market participants prefer to accumulate the maximum investment subsidy, with the total maximum subsidy amount remaining the same. The subsidy will be paid out at an earlier stage.

Financial support for electrolysis projects

The Scheme, together with the other instruments mentioned above, contributes to the wider development of the hydrogen market. This is because: hydrogen backbone rollout and achieving $CO_2$-emission reductions from the use of hydrogen in industry, among others, only makes sense and is possible only if the production of hydrogen via electrolysis starts.

The experience of previously developed small electrolysers shows that technical and safety aspects are so new for both promoters and the competent authority that project preparation and the procedures for granting the necessary permits take a long time and that the associated costs are therefore high. The experience gained from the implementation of projects under the Scheme can ensure that

projects can be prepared faster and cheaper in the future and that the authorisation procedure will be less time-consuming.

The Scheme further contributes to reducing the cost of electrolysis technology. This contribution is not very large in the light of global technological developments, as the available funding ceiling allows for a limited number of projects to be carried out.

The government is working on additional policies to create a robust business perspective for electrolysis projects also in the longer term (Parliamentary Papers II 2021/2022; 32 813, No 1060 and No 1314). The Scheme should ensure that the scaling up of hydrogen production through electrolysis is already underway, even before the development of the additional policy is ready.

The Scheme concerns the provision of a subsidy for investment and operation. The policy choice is to contribute, as a first step, to the creation of sufficient renewable hydrogen production opportunities in order to generate supply and to build the infrastructure that will enable, in particular, offshore wind to fit into the energy system in the future. Subsequently, standardisation of hydrogen users and use subsidies is planned to be added to the renewable hydrogen toolbox.

By means of the Scheme, the Minister for Climate and Energy (hereinafter: the Minister) the investment necessary for the realisation of the hydrogen production facility and at the same time for its operation (the production of fully renewable hydrogen with the subsidised production facility). Both aspects are therefore an integral part of the subsidy. Initially, the Scheme is expected to contribute to the construction of 200 to 500 MW of electrolysis capacity over the short term. A budget of EUR 998 330 000 is available.

## 2. The Scheme

### *2.1 Outline of the Scheme*

Under the Order, the Minister may grant a subsidy for the construction of a hydrogen production facility (an investment subsidy part) and the production of fully renewable hydrogen from renewable electricity (solar or wind) with that production facility (an operating subsidy). The subsidy should lead to increased production of fully renewable hydrogen: fully renewable hydrogen for the purposes of this Scheme is hydrogen that meets the requirements laid down in the regulatory framework under Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 157/11); hereafter: Renewable Energy Directive.

The Scheme is intended for hydrogen production facilities that produce hydrogen from renewable electricity (wind or solar) via electrolysis, where there is no limitation on the maximum rated electric input power of the electrolyser. However, the total subsidy amount per project is capped at one half of the total budget of this tender or EUR 499 165 000.

These may include hydrogen generating facilities connected to the electricity grid (networked hydrogen production facilities), hydrogen production facilities directly linked to a renewable electricity production facility from wind or solar energy (directly connected hydrogen production facilities) and hydrogen production facilities with a combination thereof (double-connected hydrogen production facilities).

The subsidy ceiling is divided by ranking. Applications with the lowest ranking amount will be eligible first. The ranking amount is the requested subsidy amount per MW of nominal electric input power of the electrolyser. This encourages applicants to apply for as little subsidy as possible per MW of electricity input

capacity to be achieved, so that as much electrolyser capacity as possible is within the available subsidy ceiling.

As indicated above, the subsidy consists of an investment subsidy and an operating subsidy. The operating subsidy part shall be requested (and provided) for a minimum of 5 and a maximum of ten consecutive, whole years. The flexible duration allows companies to properly align their application to their project: longer duration means longer certainty, shorter duration may result in more operating subsidy in the initial years. The limits correspond to the minimum period for which certainty is needed to take an investment decision. The development of electrolysis technology is so uncertain that this flexibility is desirable.

Advance payments are granted because the costs incurred during the lifetime of the project are such that the project cannot be realised without advance payments. The advance payment for the investment subsidy part shall run until the hydrogen production facility enters into operation, the advance payment for the operating subsidy part starts from the start of operation of the hydrogen production facility and shall continue for the duration of the operating subsidy part. The first advance payment sis not granted until the project has the necessary authorisations.

The operating subsidy part shall cover the difference between the average production price of fully renewable hydrogen and a corrective amount consisting of the sum of the average costs of producing hydrogen with a hydrogen reforming installation (hereinafter: SMR), the value of guarantees of origin for renewable hydrogen and, where applicable for the subsidy recipient, the revenues or avoided costs arising for the subsidy recipient from the tradable greenhouse gas emission allowance Scheme under Title 16.2 of the Environmental Management Act. The revenues and avoided costs are only relevant for a subsidy recipient facing tradable greenhouse gas emission allowances. Greenhouse gas emission allowance tradable results from the Emission Trading System (hereinafter: ETS), the trading system in Europe for the $CO_2$ emissions from industry. A company covered by it (hereinafter: ETS company) must, in that system, surrender one emission allowance for each tonne (1 000 kg) $CO_2$ it emits. Those emission allowances may be traded.

The operating subsidy part is provided only for the production of fully renewable hydrogen, i.e. hydrogen that demonstrably fulfils the conditions laid down in the regulations under the Renewable Energy Directive. These are conditions that demonstrate that the electricity used is renewable and comes from solar or wind energy and the requirement that – if hydrogen is also produced that is not fully renewable – the greenhouse gas emission savings of the total amount of hydrogen produced must be at least 70 %. These requirements are intended to ensure that the hydrogen production results in environmental benefits. This is a condition for the notification of this Scheme by the European Commission under the Guidelines on State aid for climate, environmental protection and energy 2022 (OJ 2022/C 80/01) (hereinafter: Environment and Energy Framework).

The Scheme provides that the Minister adopts an opening decision setting out the subsidy ceiling for the opening up and the period during which applications may be submitted. The opening decision shall fix the provisional correction amount for the current year. For the purpose of the advance, the provisional corrective amounts for the following year shall be fixed annually by a separate decision before 1 November and the final correction amounts for the previous year shall be fixed each year before 1 April.

### *2.2 Target group*

The Scheme is accessible to undertakings: an undertaking is any entity, regardless of its legal status or method of financing, engaged in an economic activity.

The subsidy will only be granted for projects in which the hydrogen production facility can be put into operation within 5 years of the granting of the subsidy. A derogation may only be granted for a maximum period of 2 years. This could be the case, for example, in case the project uses a wind farm that only becomes operational after 6 years.

So as to increase the number of potential applicants, the Scheme does not require that the environmental permit for the hydrogen production facility has already been obtained. If this authorisation has already been granted, the applicant must send it with the application. If this authorisation has not yet been granted, the applicant must submit the pending application when submitting the subsidy application. In this respect, it is important that, in addition to the application form, confirmation is submitted that the application has been accepted by the competent authority, as well as supporting documents, in particular the Quantitative Risk Analysis (QRA).

### *2.3 Hydrogen production facilities*

The Scheme is accessible to undertakings that are to establish a hydrogen production facility with an electrolyser for electrolysis from water to oxygen and hydrogen, thus producing fully renewable hydrogen. The Scheme is not intended for production facilities that use electrolysis to convert salts dissolved in water (such as sodium chloride) into products such as chlorine, with hydrogen as a by-product. These facilities are primarily intended for the production of another product (e.g. chlorine) and the aim of the Scheme is to stimulate the production of hydrogen, not other products. The electrolyser must not have been in use before, as the Scheme must ensure additional electrolyser capacity; this avoids that a mere relocation of capacity. The hydrogen production facility must be located in the Netherlands, the territorial sea or within the exclusive economic zone of the Netherlands.

### *2.4 Additionality conditions and 70 % greenhouse gas emission savings*

#### 2.4.1 Additionality conditions

Fully renewable hydrogen for the purposes of this Scheme is hydrogen that demonstrably meets the conditions laid down in Commission Delegated Regulation (EU) 2023/1184 of 10 February 2023 supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing a common Union methodology providing detailed rules for the production of renewable liquid and gaseous transport fuels of non-biological origin (OJ L 157/11) (hereinafter: Delegated Regulation (EU) 2023/1184) for the hydrogen production facility and to the facilities in which renewable electricity from wind and solar energy is reprocessed. These are the additionality conditions. These conditions pertain to concurrent commissioning of these facilities, subsidy-free electricity generation, temporal correlation between electricity generation and electricity consumption in the hydrogen production facility and the geographic proximity of the facilities.

In order to demonstrate that the purchased renewable electricity from wind and solar farms is not used to substantiate another sustainability claim, subsidy recipients should also demonstrate that they have guarantees of origin for renewable electricity for the renewable electricity from wind or solar energy used, and that these guarantees of origin are written off (cannot be reused) if the electricity is used for the production of fully renewable hydrogen.

Guarantees of origin for renewable hydrogen that companies can apply for renewable hydrogen production are not in themselves sufficient to demonstrate that a hydrogen production facility fulfils the additionality conditions. Guarantees of origin for renewable hydrogen shall demonstrate the purchase of renewable electricity from a given source; for example, a specific wind farm or solar park. In addition, in order to demonstrate the existence of fully renewable hydrogen, the

project must also fulfil the other additionality conditions, which subsidy recipients must demonstrate by means of a declaration as referred to in Article 4.2. Subsidy recipients must, however, demonstrate that they have received the appropriate guarantees of origin for renewable hydrogen for the adjustment of the advances provided, in order to demonstrate where they purchased the renewable electricity used (see Article 6.10).

### 2.4.2 70 % greenhouse gas emission savings

In addition, for hydrogen production facilities producing both fully renewable and non-fully renewable hydrogen, a subsidy shall only be granted under the Scheme if the greenhouse gas emission reduction of all hydrogen produced is at least 70 % (hereinafter: the 70 % requirement). Commission Delegated Regulation (EU) 2023/1185 of 10 February 2023 supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing a minimum threshold for greenhouse gas emission savings from recycled carbon fuels and specifying the methodology for assessing greenhouse gas emission savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels (OJ L 157/20) (hereinafter: (Delegated Regulation (EU) 2023/1185)) applies to the manner in which the calculation is to be made.

### 2.4.3 Impact on number of full-load hours

Unlike for example the categories for hydrogen production under the SDE++ Decree, the Scheme is not subject to a maximum number of full load hours. For example, the maximum number of full load hours under the SDE++ Decree serves to ensure that hydrogen production takes place in particular at times when most, if not all, electricity comes from wind and solar farms. Instead of a maximum number of full load hours, the Scheme contains the additionality conditions and the 70 % requirement. The number of full load hours in which, under the Scheme, compliance with the additionality conditions and the 70 % requirement can be demonstrated, is determined by the applicant for the subsidy itself, on the basis, inter alia, of:

- the ratio of the capacities of the wind and solar farms (that supply electricity through a direct connection or a grid connection and renewables power purchase agreements) to the capacity of the electrolyser;
- the type of production facility for the production of renewable electricity (solar and/or wind) and its location;
- the electricity-to-hydrogen conversion efficiency.

It is the additionality conditions and the 70 % requirement that limits the number of full load hours in which fully renewable hydrogen can be produced for which a subsidy can be obtained through this Scheme. This is a simplification, because the wind does not always blow and the sun does not always shine: for some hours in the year, the facility cannot meet requirements such as temporal correlation, meaning that it cannot produce renewable hydrogen during certain hours of the year. This limitation on the number of full load hours will occur after 1 January 2030, in particular, if the temporal correlation on an hourly basis has to be demonstrated.

### 2.4.4 Impact on amount of not fully renewable hydrogen

In order to demonstrate compliance with the 70 % requirement – when performing the $CO_2$ intensity-calculation of hydrogen produced – the methodology set out in Delegated Regulation (EU) 2023/1185 shall be followed. The 70 % requirement limits the amount of hydrogen that is not fully renewable that can be produced (in order to receive a subsidy for the renewable hydrogen produced), as an excessive ratio between hydrogen that is not fully renewable and fully renewable hydrogen will not meet the 70 % requirement.

### 2.4.5 Demonstration of compliance with additionality conditions and the 70% requirement

The subsidy will only be provided when the additionality conditions laid down in Delegated Regulation (EU) 2023/1184 are demonstrably met and the 70 % requirement if hydrogen that is not fully renewable is also produced. Projects that do not produce hydrogen other than fully renewable hydrogen by definition also fulfil the 70 % requirement.

Private monitoring ensures compliance with these requirements, based on audits conducted by competent compliance assessment bodies (hereinafter: CABs). For this purpose, the subsidy recipient shall have to obtain certification with a voluntary scheme for renewable fuels of non-biological origin as defined in Article 30(4) of the Renewable Energy Directive. A voluntary scheme such as this has been developed to demonstrate compliance with Delegated Regulation (EU) 2023/1184 and the 70 % requirement. After certification in an initial compliance assessment audit, a company normally undergoes annual monitoring audits. A certificate is typically valid for 5 years. Thus, 5 years after the first audit, the facility requires a recertification audit, followed by another 4 years of monitoring audits, then another recertification audit, and so on. However, there are also certification schemes where the validity of the certificates is limited to one year. In this case, a re-certification audit should be carried out annually.

Relevant voluntary schemes have been developed in draft form by CertifHy, ISCC and REDcert. These schemes have been submitted to the European Commission for recognition under the Renewable Energy Directive. At the time of publication of the Scheme, this recognition procedure has not yet been completed. CertifHy, ISCC and/or REDcert are expected to publish final versions of their voluntary scheme once the accreditation process is completed.

The voluntary schemes to be used must have been recognised by the European Commission in accordance with Article 30(4) of the Renewable Energy Directive or – during a transitional phase in which recognition of the first two voluntary Schemes is still temporarily awaited – be awaiting such recognition by the European Commission. These accreditation procedures were launched in 2023. It is expected that the first relevant voluntary schemes have been accredited by the European Commission long before the establishment of the hydrogen generating installations subsidised under this Scheme.

Auditors are employed by CABs. CABs must be accredited to work with a particular voluntary scheme. Websites with information on the voluntary schemes indicate which CABs (and thus also which auditors) are permitted to work with which voluntary schemes.

The subsidy applicant shall demonstrate compliance with the additionality conditions and the 70 % requirement by submitting a declaration to the Minister. This declaration must be submitted annually within 5 months of the end of the calendar year (i.e. before 1 June in the following calendar year), together with information for the previous calendar year. An auditor from the CAB involved in the certification must complete and sign the declaration. This statement shall provide an overview of the amounts of fully renewable hydrogen and hydrogen produced in the previous calendar year that is not fully renewable and of the amounts of electricity used for that purpose. It shall include all the information referred to in Article 8 of Delegated Regulation (EU) 2023/1184. This is information that the auditor of the CAB involved in the certification has already verified as part of the certification during a re-certification or surveillance audit. This audit looks back to the previous year in order to check the mass balance. Therefore, the submission of the declaration does not lead to additional audit work. However, if the first certification audit takes place in the second half of a calendar year, a re-certification or surveillance audit might have to be carried out once after about half a year instead of 1 year. In this way, it is ensured that the mass balance data

for a calendar year were indeed checked by the auditor within 5 months of the end of the calendar year.

The subsidy recipient must submit a final report on the realisation of the hydrogen production facility within 13 weeks of the hydrogen production facility being put into operation. If electricity is used from a wind or solar generating installation, renewable power purchase agreements shall be submitted for the electricity that will be used for the production of the fully renewable hydrogen in the first 3 years. If the final report on the realisation of the hydrogen production facility does not include the required renewable power purchase agreements for the first three years after its entry into service, the advance payment of the operating subsidy will be suspended pursuant to Article 4:56 of the General Administrative Law Act (hereinafter: Awb), where the subsidy recipient is given the opportunity to submit the information requested. Otherwise, the subsidy may be withdrawn or set at EUR 0 because the renewable nature of the hydrogen to be produced cannot be guaranteed. Should the subsidy recipient submit incorrect or terminated power purchase agreements, this will lead to the withdrawal of the subsidy (pursuant to Article 4:48 of the General Administrative Law Act or Article 7 of the Framework Act on EZK and LNV subsidies). In addition to the withdrawal of the subsidy, RVO shall carry out a fraud investigation into the actions of the subsidy recipient. If this fraud investigation reveals that there is a reasonable suspicion of fraud, a complaint is made to the Public Prosecutor’s Office.

If the requirements set out in Delegated Regulations (EU) 2023/1184 and 2023/1185 are not met, or if there is no declaration that the project complies with the additionality conditions and, if necessary, the 70 % requirement, the operating subsidy may be withdrawn or fixed at EUR 0 pursuant to Article 4:48 of the Awb. Up to 5 years after the adoption, the part of the investment subsidy may also be set at less than EUR 0 if during this period it appears that the renewable nature of the hydrogen produced is not sufficiently guaranteed (Article 4:49 Awb or Article 7 of the Framework Act on EZK and LNG subsidies).

2.4.6 Written offer from a supplier or future supplier of renewable electricity

In the case of a networked or double-connected hydrogen production facility, the application shall be accompanied by a written offer from a supplier or future supplier to supply renewable electricity. This offer should show that, in any case, the submitter must be able to have sufficient electricity in the first 3 years of operation to achieve its intended production and to comply with Articles 3 to 8 and 11 of Delegated Regulation (EU) 2023/1184. This requirement increases the likelihood that a project can successfully produce in a timely manner. Without this condition, this is a risk because the supply of renewable energy sources meeting the requirements of Delegated Regulation (EU) 2023/1184 is limited in the first years of operation of the electrolysis projects. The written offer shall at least indicate the installation from which the electricity supplied originates, the period during which electricity can be supplied, the amount of electricity that can be supplied, the price for which the electricity is supplied or the price determined and the period for which the offer is valid.

It is possible to submit a subsidy application with the intention to conclude the renewable power purchase agreement with an offshore wind farm that has not yet been awarded to a project promoter. At the time of the decision to grant a subsidy, it shall be assessed whether it is likely that the power purchase agreement will actually be concluded, for example because the wind-farm plot in question was then awarded to the developer in question.

### *2.5 Method of calculating the investment subsidy part, granting advances and adjustment of advances*

2.5.1. Calculation of the investment subsidy part

The investment subsidy part shall not exceed a fixed percentage of the eligible costs for the investment subsidy part. This percentage shall not exceed 80 %. The reason for the 80 % rate is that it removes a large part of the risks associated with the construction of the installation for the company and avoids higher financing costs, thus allowing a final investment decision to be taken quickly after the subsidy is awarded.

Subsidies previously obtained (in so far as these subsidies do not lead to a rejection of the subsidy application: see Article 3.11(1)(m) and (n)), from, for example, regional or European funds, applicants must take these percentages into account and are important for the test appropriate incentive (see Article 4.8) in order to avoid overstate aid.

2.5.2 Eligible costs of investment subsidy part

Eligible costs for the investment subsidy part are the costs necessary for the realisation of the hydrogen production facility. This may include costs for land and buildings, machinery and equipment, including a battery storage system of modest size, a hydrogen compression installation up to 70 bar, materials and resources, intangible assets or the construction of infrastructure connecting to public energy infrastructure to the extent that these costs are entirely attributable to the realisation of a hydrogen production facility. Intangible assets are all investments that are capitalised in the balance sheet but lack physical substance. The detailed design of the hydrogen production facility falls under intangible assets. Intangible assets may also include working hours of company personnel, but only if the company capitalises these hours in the balance sheet and only if these hours are directly related to the construction of the hydrogen production facility.

The hydrogen production facility includes the electrolyser and, in addition, all equipment also known as ‘balance of plant’: the equipment other than the electrolyser needed to produce the hydrogen. This includes electricity supply (transformers, rectifiers, grid connection or wind/solar park for the hydrogen production facility only), water purification, gas/liquid separation, gas purification including gas dryer, possibly (modest) storage of hydrogen (equivalent to the amount of hydrogen in kg that the hydrogen production facility can produce over a period of 24 hours), cooling of the installation, hydrogen connection for the hydrogen production facility only and control, metering and safety facilities/equipment. Eligible costs may also include the costs for a battery storage system of modest size (batteries with a maximum capacity of 1 MW per MW rated electric input power of the electrolyser and a maximum storage capacity of 2 MWh per MW of rated electric input power of the electrolyser) as part of the electrolyser.

Equipment supplying the hydrogen produced to customers, such as filling points for tube trailers and the tube trailers itself, are excluded from the hydrogen production facility. No subsidy can be requested for the purchase, construction and operation of this equipment under the Scheme.

The investment subsidy part does not include costs incurred by the applicant prior to the submission of the subsidy application, nor the turnover tax costs which the beneficiary itself can deduct.

For eligibility, costs must be substantiated with documentary evidence submitted by the subsidy applicant.

2.5.3 Advance payments for investment subsidy part

The Scheme provides for advance payments of the investment costs in order to reduce the total cost of realising the hydrogen production facility: as a result of these advances, the financing costs for subsidy recipients are reduced. Advances shall be made automatically: the subsidy applicant does not have to submit an advance payment application. Failure to comply with obligations, a deviation from the project plan or a reasonable suspicion of this may lead to the suspension of the advance payments under Article 4:56 of the General Administrative Law Act (Awb) and then a revocation or amendment of the subsidy decision, with recovery of the advances already granted. Article 7 of the Framework Act on EZK and LNV-subsidies also provides for the possibility of recovery.

The first advance payment shall not be granted until the necessary environmental permit as referred to in Article 3.5 of the Regulation has been granted. Advances are subject to the basic principle that after the first advance, paid within 2 weeks after the start of the activities, an advance will be paid every quarter. The amount of the advance amounts is determined on the basis of the budgeted costs per milestone. A milestone budget entails that the budget is divided into relevant decision-making times, as indicated in the project plan, such as to decide whether to continue with a project or not. A budget is also a milestone budget if it is based on achievement of partial results or on key events. A combination of both types of milestone budgets is also possible.

An advance payment amounts to 90 % of the amount of investment subsidy eligible in the quarter. The starting point is the period between the milestones as set out in the project plan. The start of operations is considered to be the first milestone. The period between two milestones within the quarter for which an advance payment is granted shall be defined. The eligible costs in the period between those two milestones shall be eligible for advance payments in that quarter. Where the period between two milestones covers more than one quarter, the eligible costs of that period between those two milestones shall be apportioned proportionally over the relevant quarters.

This advance payment system is as close as possible to the actual costs incurred during this period. The amount of the advance is 90% of the eligible costs to be incurred in that quarter. Due to its link with the advances, it is vital to know whether the milestone planning included in the project plan and budget is in line with reality. Otherwise the subsidy recipient may receive considerable advances in the absence of corresponding expenditures, or could face undesired shortfalls in financing. If the eligible costs incurred between two milestones differ by more than 25 % from eligible costs included in the budget, the subsidy recipient must notify the Minister without delay (see Article 5.6(2)).

2.5.4 Adjustment of advances on investment-subsidy part

After receiving the final report on the construction of the production facility, the Minister shall adjust the advances for the investment-subsidy part. If it appears that all the advances granted are less than 100 % of the amount of the investment subsidy, the Minister shall pay the subsidy recipient the amount underpaid within six weeks of the decision to adjust the advance. If it proves that all the advances granted exceed 100 % of the amount of the investment subsidy, the Minister shall recover the overpaid advance.

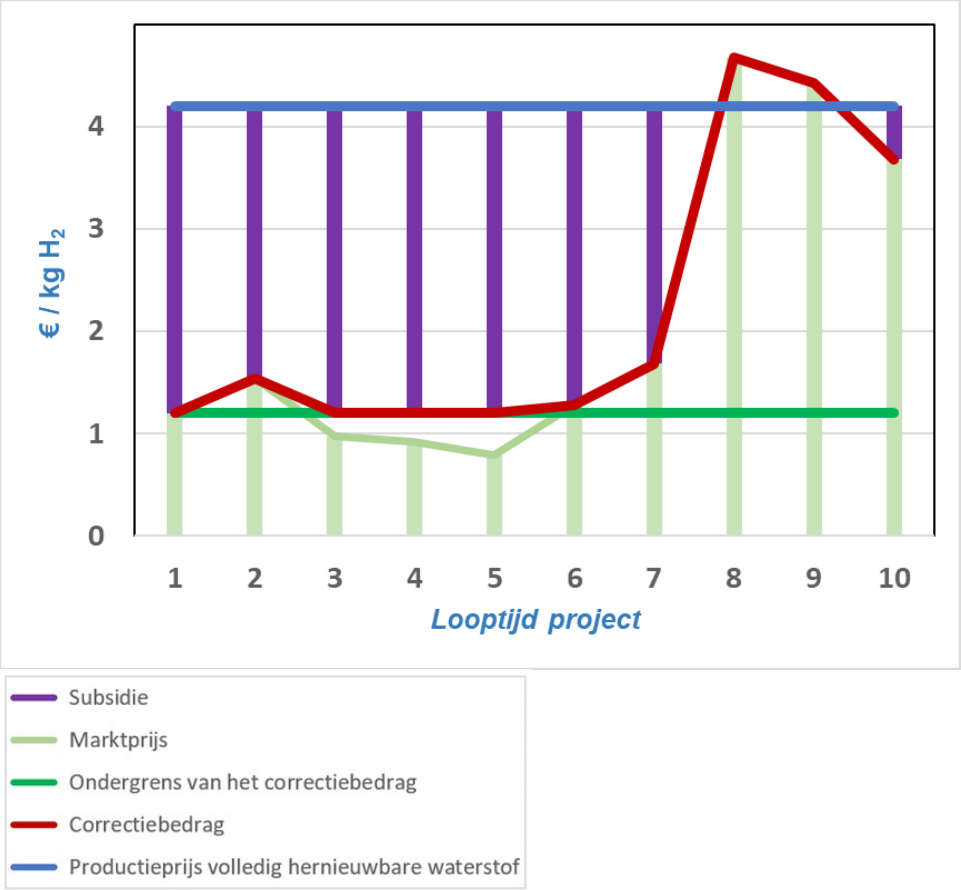
### *2.6 Method of calculation the operating subsidy, advance payment and adjustment of advances*

2.6.1 Calculation of the operating subsidy part

The operating subsidy part is intended to compensate, in whole or in part, the difference between the average production price of the fully renewable hydrogen and the corrective amount, taking into account the investment subsidy part for calculating the production price of the fully renewable hydrogen. The correction

amount consists of the sum of the average costs of producing hydrogen with the SMR, the value of the guarantees of origin for renewable hydrogen and, if a company is an ETS company, the revenues or avoided costs arising for the subsidy recipient from the system of tradable greenhouse gas emission allowances under Title 16.2 of the Environmental Management Act.

The figure below illustrates the method of calculation. The terms ‘production price of fully renewable hydrogen’, ‘correction amount’ and ‘lower limit of the correction amount’ are explained in the sections below.




| | |
|---|---|
| Looptijd project | Project leadtime |
| Subsidie | Subsidy |
| Marktprijs | Market price |
| Ondergrens van het correctiebedrag | Lower limit of the correction amount |
| Correctiebedrag | Correction amount |
| Productieprijs volledig hernieuwbare waterstof | Fully renewable hydrogen production price |

The operating subsidy part per calendar year shall be calculated by multiplying the amount of fully renewable hydrogen produced in kilograms in that calendar year by the difference between the production price of fully renewable hydrogen and the final correction amount for that calendar year. If in a calendar year less than the annual average amount of fully renewable hydrogen to be produced is less than the annual average amount of fully renewable hydrogen to be produced, the non-produced kg of fully renewable hydrogen shall be added to the annual average amount of fully renewable hydrogen to be produced in the following

calendar year. If more than kg of fully renewable hydrogen has been produced in a calendar year than the annual average amount of fully renewable hydrogen to be produced, up to 25 % of that excess of that kg of fully renewable hydrogen produced shall be considered as produced in the following calendar year in the period covering the operational part.

#### 2.6.1.1 Fully renewable hydrogen production price

The production price for the production of fully renewable hydrogen is calculated by the subsidy applicant in an operating calculation, which is attached to the application. This calculation shall take into account the investment-subsidy part; the resulting investment subsidy part results in a lower production price than a comparable production price would be obtained in the absence of the investment-subsidy part. For the operating budget, the subsidy applicant factors in operating costs, including costs for the purchase of electricity, and a reasonable return.

In order to ensure the efficiency of the Scheme, a maximum amount of subsidy in EUR per kg has been included as grounds for rejection. This maximum amount shall be EUR 9 per kg of fully renewable hydrogen. This ceiling is determined on the basis of the investment subsidy requested in EUR divided by the requested total amount of fully renewable hydrogen to be produced in kg in the period that shall cover the operating subsidy part + requested production price of fully renewable hydrogen in EUR per kg – the lower limit of the correction amount per kg of hydrogen set by the Minister. This lower limit will be set at EUR 2024 when the Scheme was set at EUR 1.7997. The amount of EUR 9 per kg corresponds to EUR 1 000 per tonne of avoided $CO_2$. Under this Scheme, a higher level of subsidy can than under the SDE++ Decree.

#### 2.6.1.2 Correction amount

The correction amount reflects the expected revenue that the subsidy recipient can receive, in addition to grants, during the period covered by the operating subsidy part. The correction amount shall be equal to the sum of the average costs of producing hydrogen with an SMR installation, the value of guarantees of origin for renewable hydrogen and, where applicable, the revenues or avoided costs arising for the subsidy recipient from the tradable greenhouse gas emission-allowance system.

Details on the calculation of the correction amount are available in annual PBL publications on correction amounts on the PBL website. In recent years, these corrections have been calculated for the subsidies under the SDE++ Decree and for the Subsidy Scheme for cooperative energy generation. In the coming years, PBL shall also calculate corrective amounts for the Scheme.

The Minister sets a provisional and a final correction amount annually for the advance payment. The Minister sets the provisional correction amount before 1 November of each year for the monthly advances in the following calendar year. The average cost of producing hydrogen with an SMR installation, the value of renewable hydrogen guarantees of origin and the average price of tradable greenhouse gas emission allowances for the preceding period from 1 September to 31 August shall be used.

The Minister sets the final correction amount before 1 April of each year for adjustment of the advances paid in the preceding calendar year. The average costs of producing hydrogen with an SMR installation, the value of renewable hydrogen guarantees of origin and the average price of tradable greenhouse gas emission allowances in the previous calendar year (1 January to 31 December) shall be used. The Minister shall issue a decision setting the provisional and final correction amounts, with the exception of the provisional correction amount for 2023, specified in this Scheme.

#### 2.6.1.3 Lower-limit correction amount

The Minister applies a lower limit to the amount of the correction he uses when calculating the operating subsidy, in order to place a limited part of the price risk on the applicant. This lower limit will be based on the long-term avoided costs of producing grey hydrogen with an SMR installation. In order to determine this figure, the estimates of PBL from the SDE final opinion in the year of opening are used. Setting this basic price of hydrogen reduces the financial risk to the public budget. In practice, the avoided costs of producing hydrogen with an SMR installation are not likely to fall below this basic hydrogen price. Without this limit, the government would in fact have to keep budget available for this, but would likely not disburse it. Setting the basic price of hydrogen requires less available budget per hydrogen production facility, thus enabling incentives for more hydrogen production facilities.

#### 2.6.1.4 Eligible production

The subsidy decision shall determine for the hydrogen production facility concerned the total quantity of fully renewable hydrogen to be produced in kg during the period covering the operating subsidy part and the average quantity of fully renewable hydrogen to be produced in kg per year for which the operating subsidy part can be granted. This amount of fully renewable hydrogen to be produced in kg over the whole period covered by the operating subsidy part shall be taken from the subsidy application.

#### 2.6.1.5 Banking of the operating subsidy part

The Scheme offers the option to transfer production capacity to another calendar year, known as ‘banking’. Banking takes two possible forms:

- banked underproduction: where less fully renewable hydrogen is produced than the average amount of fully renewable hydrogen to be produced, the non-produced kg of fully renewable hydrogen shall be added to the annual average amount of fully renewable hydrogen to be produced in the following calendar year. It is also possible to make up the production shortfall during an additional year at the end of the subsidy period;
- banked overproduction: where more fully renewable hydrogen is produced than the average amount of fully renewable hydrogen to be produced, up to 25 % of the annual average amount of fully renewable hydrogen to be produced shall be considered as produced in the following calendar year in the period covering the operational part.

Allowing banking improves the risk profile for hydrogen production facilities, which indirectly results in a lower subsidy needs. This instrument is intended to address fluctuations in renewable hydrogen production beyond the control of the subsidy recipient, such as due to fluctuations in the amount of wind or sun. The taking into account of fully renewable hydrogen produced in a previous year in excess of the maximum eligible annual production (backward banking) is limited to a maximum of 25 % of the kg of fully renewable hydrogen produced in the year in question.

If it is likely that at the end of the period covered by the operating subsidy part there will be an unused number of kilograms of fully renewable hydrogen, the Minister shall, at the prior request of the subsidy recipient, extend the subsidy period in order to enable the subsidy recipient to carry out the unused eligible production and to receive a subsidy for that purpose. The maximum extension is 1 year. The maximum duration of the subsidy period will therefore normally be 15 years, but will never exceed 18 years (5 years of realisation and 10 years of operation, with the possibility of extending the implementation period by a maximum of 2 years and using the additional banking year for the operating period). Any production remaining after this time is no longer eligible for subsidy. The subsidy recipient must submit an application for the award of the subsidy within 6 months of the end of the subsidy period for the operating subsidy part.

2.6.1.6 Advances on operating subsidy part

Subsidy recipients shall receive an advance on the operating subsidy part each year of the period covered by the operating subsidy part. These advances shall be paid monthly.

Calculation of the advances uses a provisional correction amount determined by the PBL. This is based on the average costs of producing hydrogen with the SMR, the value of guarantees of origin for renewable hydrogen and the avoided costs and revenues stemming from the tradable greenhouse gas emission allowance system in the coming year. This provisional correction amount will be published annually before 1 November.

The advance payment to be received monthly shall be based on one-twelfth of 80 % of the sum of the average number of kg per year established and, where appropriate, underproduction. This means the subsidy recipient can count on a fixed monthly amount, and the advance received will therefore not depend factors such as on seasonal production fluctuations. In certain cases, the Minister may recalculate the monthly amounts, such as if monthly or cumulative production lags far behind the estimates.

After the end of a calendar year, PBL calculates the final correction amount on the basis of the avoided costs of producing hydrogen with the SMR, the value of guarantees of origin for renewable hydrogen and the avoided costs and charges resulting from the system of tradable greenhouse gas emission allowances in the relevant year. The final correction amount shall be published by the Minister before 1 April each year. Within 7 months after the end of the calendar year, the advances are adjusted on the basis of the final correction amount and the amount of fully renewable hydrogen produced in that calendar year, including the banked overproduction for which renewable hydrogen guarantees of origin have been issued and for which it has been established that the hydrogen is fully renewable on the basis of the declaration referred to in Article 4.2. Any excess from the advances paid is set off against advances in the following year. If monthly amounts are no longer due, the overpayment shall be recovered. If the beneficiary of the subsidy has received insufficient advance, the remaining amount shall be paid to the beneficiary within 6 weeks of the decision to adjust the advance.

### *2.7 Subsidy calculation*

Within 6 months of the end of the operating part of the subsidy, the subsidy recipient submits an application for the determination of the subsidy (Article 7.1). The Minister then sends the decision determining the subsidy within 13 weeks of receipt of this application (Article 7.2(1)). If the application for determination of the subsidy has been submitted before the final correction amount (Article 6.120 is fixed for the last year in which the eligible production took place, the thirteen week period (Article 7.2(3)) is suspended and the period ends 13 weeks after the date on which the final correction amount was established. The decision determining the subsidy covers both the investment subsidy part and the operating subsidy part.

Within one year from the date on which the hydrogen production facility is put into service, the subsidy recipient shall share all the information necessary to enable RVO to carry out a test of appropriate stimulation (also referred to as the MSK test). The Minister may also request that this test be carried out at other times. This is expected to happen once more at the end of the operating subsidy part. In the MFC test, RVO also looks at publicly available market information in order to assess whether the prices charged by the submitter are reasonable.

### *2.8 Application and decision*

2.8.1 Application, information requirements

The period during which the subsidy application may be submitted shall be set out in a separate decision to open the subsidy. This also sets out the subsidy ceiling.

The application shall be submitted using a form provided by the Minister. Applications shall be submitted via https://mijn.rvo.nl/eloket/login-start.html. The above form is available on this webpage at the time of submission of subsidy applications. In the application, the applicant provides contact information and information on the hydrogen production facility. The application must also be accompanied by a project plan setting out the activities of the hydrogen production facility, including at least three milestones and a timetable with the planned start date of the activities and the planned date of completion of the hydrogen production facility, and a budget, per component, of the eligible costs (Article 5.4). The application shall also include the expected date of entry into service of the hydrogen production facility. The application should also be accompanied by a feasibility study, including an operating calculation as part of that study. A declaration of consent should also be attached if the applicant for subsidy is not the owner of the site where the hydrogen production facility is to be located. The applicant must also attach a network operator declaration on the availability of transmission capacity for the hydrogen production facility. This is asked to avoid planning a hydrogen production facility with a grid connection at a location where no or insufficient transmission capacity for electricity is expected to be available.

The applicant shall be responsible for the completeness of the application and the accuracy of the documents submitted. It is not possible to consider incomplete applications. The Scheme is a tender scheme, which means it will rank the (complete) subsidy applications. This process does not permit submission of any addenda or amendments after the closing date (application receipt deadline).

A maximum of one subsidy application may be submitted for each address (or failing this, for each land register designation) where a hydrogen production facility is to be installed, in the aforementioned subsidy application period.

2.8.2 Grounds for rejection

The application shall be rejected if the amount of subsidy requested exceeds EUR 9 per kg of fully renewable hydrogen to be produced. This limit of EUR 9 per kg of fully renewable hydrogen corresponds to an amount of EUR 1 000 kg per tonne of $CO_2$ avoided.

The application shall also be rejected if the electrolyser has already been used or if the requested operating subsidy part is shorter than 5 years or more than 10 years. The application shall also be rejected if it is not plausible that the hydrogen production facility is realised (on time) or that the entire operational period may be in operation, or if it is not plausible that the hydrogen production facility is feasible or is technically, financially or economically feasible. The application shall also be rejected if the Minister considers it implausible that the hydrogen production facility complies with the additionality conditions and the 70 % requirement. The application is also rejected if the written offer of an electricity supplier (Article 3.3(4) and (5)) cannot be materialised at the time of its disposal because the electricity supplier does not have a licence to operate the electricity source.

Furthermore, the application is rejected if the application does not contain the necessary information (Articles 3.3 to 3.9), for example because the electricity transmission indication or the consent of the site owner to develop the hydrogen

generating installation at the intended site is missing. A tightening compared to the OWE is to justify, as part of the feasibility study, how much hydrogen is expected to be sold to which customer and at what price. This can be demonstrated, for example, by reports of the negotiations already conducted. Moreover, the Minister will reject an application if the applicant entered into irreversible investment commitments for construction of the hydrogen production facility before the application submission date, if it started the activities before submitting the application, or if it is plausible for the activities to be completed without significant delay even without a subsidy.

Finally, the application is rejected if the financial feasibility of carrying out the hydrogen production facility depends on other subsidies to be obtained, or if a subsidy has already been granted under the Scheme, the SDE++ Decree or the OWE (‘granted’) for the production of hydrogen with the production facility. The reason for the first ground for rejection is that reliance on subsidies still to be obtained increases the risk of non-realisation. Subsidies already obtained other than those under the SDE++ or OWE Decree, such as subsidies from regional or European funds, are not grounds for rejection as they do not adversely affect the expected realisation. However, subsidies obtained under the SDE++ or OWE Decree are a ground for rejection to prevent strategic behaviour when submitting both Subsidy Schemes.

The above grounds for rejection are the grounds for rejection prior to ranking. After ranking, applications shall be rejected if the subsidy ceiling is reached. RVO can proceed to ranking without fully assessing each individual project, for example if the project is rejected on the basis of one of the grounds for rejection.

### 2.8.3 Assessment and ranking

The Minister assesses the applications after the end of the opening period.

Ranking shall take place on the basis of the ranking amount. This consists of the requested subsidy amount per MW of electric input power of the electrolyser. This includes the sum of the investment subsidy requested, any investment subsidy previously granted and the operating subsidy, divided by the number of MW applied for in nominal electrical input power of the electrolyser. The investment subsidy previously provided includes both national and regional grants as well as European subsidies.

The lower the ranking amount applied for, the higher the ranking of the application. When the subsidy ceiling would be exceeded by two or more applications with the same ranking amount, the Minister determines the ranking of these applications by drawing lots.

The ranking is calculated with ranking amounts in EUR per MW rounded to two decimal places.

### 2.8.4 Subsidy award decision

No later than thirteen weeks after the application, possibly extended by a further 13 weeks, the Minister shall decide on the subsidy application. This 13-week period is necessary for proper review of the subsidy applications. The Minister will only extend the period in exceptional cases. The applicant will be informed accordingly.

The Minister issues a subsidy award decision for the highest-ranked applications that meet the set requirements, for as long as budget is still available. The decision shall specify, for the purposes of calculating the subsidy and advances: the period covered by the operating subsidy part, the production price of fully renewable hydrogen, the total amount of fully renewable hydrogen to be produced in kg in the period covered by the operating subsidy part, the annual average

amount of fully renewable hydrogen to be produced in kg and the monthly average amount of fully renewable hydrogen to be produced in kg.

### 2.8.5 Information requirements after a subsidy award decision

The Scheme requires the subsidy recipient to provide the Minister with the following information after obtaining the decision to grant the subsidy:

- an annual progress report on the implementation of the hydrogen production facility up to the moment the installation is put into operation;
- a final report on the implementation of the installation, within thirteen weeks of the date on which the installation was put into service;
- within one year of the installation being put into service (and thereafter at the request of the Minister), an overview of the actual investment costs, the other costs and benefits during operation, the subsidies and other aid already received, and of the subsidies and other aid still to be received. The data shall be used for the appropriate incentive test using the calculation model of the Netherlands Enterprise Agency (hereinafter: RVO), as used by RVO in the appropriate incentive and cumulation test when applying the Policy Rule Test under the SDE++ Decree (Government Gazette 2022, 17825); the policy rule shall be followed wherever possible. The calculation model shall be very similar to the calculation model used in the application of the Policy Rule, with the addition of the investment subsidy received;
- from the start of operation of the hydrogen production facility, an annual statement demonstrating compliance with the additionality conditions and 70 % requirement;
- a biennial progress report on the operation of the hydrogen production facility from the moment the hydrogen production facility is put into operation;
- an immediate written notification of the submission to the court of an application for a declaration of bankruptcy, for suspension of payments or for the application of the debt-relief scheme for natural persons;
- an immediate written notification as soon as it is likely that the hydrogen production facility will not be realised or put into service in due time or the subsidy conditions will not be fulfilled in full and on time; upon request, any other documents, data or information necessary for a decision on the subsidy

The Scheme also provides that the recipient of the subsidy is to cooperate in an evaluation up to 5 years from the date of the decision determining the subsidy, in so far as it can reasonably be required to cooperate.

### 2.8.6 Use of information for knowledge dissemination

In order to maximise the subsidies' impact, it is important that as many project developers as possible benefit from the lessons learned from the first electrolysis projects. The Minister may widely disseminate non-business sensitive information from progress and final reports to achieve this. This information may, for example, serve as a basis for public reports or presentations.

### 2.8.7 Construction and commissioning of the hydrogen production facility

The subsidy applicant shall submit with the application a project plan setting out the activities with milestones and a timetable of how and when the hydrogen production facility will be realised, including a budget and milestones. The subsidy recipient shall inform the Minister without delay of the date on which it enters into operation of the hydrogen production facility and of any delay as soon as it is likely to occur. The hydrogen production facility must be put into operation as soon as possible and as soon as possible after its completion, but not later than five years after the decision to grant the subsidy. The Minister may, in the event of delay, grant a derogation from completion and entry into service within the 5-year period and extend it for a maximum period of 2 years. The subsidy recipient must request

this in good time in advance. The above is vital to ensure that funds that the government makes available do not go unused for years, and due to the urgency of the underlying climate goals. The Minister may withdraw the subsidy if the applicant fails to meet order placement or commissioning deadlines.

The subsidy recipient shall implement the hydrogen production facility as indicated in the project plan with the milestones submitted with the application and shall operate the production facility according to the data submitted with the application. If the project requires changes with respect to the application, such as in the size of the hydrogen production facility, the Minister may grant a waiver for this on prior request from the subsidy recipient.

2.8.8 Period covered by the operating subsidy part

The period covered by the operating subsidy part is requested by the subsidy recipient and included in the subsidy decision. It must choose a period of continuous, whole years, of a minimum of 5 years and a maximum of 10 years. If he or she wishes to reduce or extend this period, he or she must apply for an exemption from the Minister.

If, after the end of the period, not all fully renewable hydrogen to be produced, as set out in the subsidy decision, have been produced, the period shall be extended by a maximum of 1 year. The banked underproduction can then still be produced. The period ends immediately if the total amount of fully renewable hydrogen to be produced has still been produced.

## 3. Relationship with higher-order and national legislation

3.1 Technical regulations

This scheme was notified to the Commission of the European Communities in compliance with Article 5(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification) (OJ L 241, 2015). It includes technical specifications or other requirements relating to tax or financial measures. A standstill period does not apply here by virtue of Article 7(4) of Directive 2015/1535. The notification (PM) did not give rise to any comments.

3.2 State Aid

Subsidies for hydrogen production by companies with electrolysers constitute State Aid.

For this reason, this Scheme was submitted to the European Commission for approval, to assess whether it meets the conditions in the Environmental and Energy Aid Framework. The approval decision was taken on (SA PM) 2024.

3.3 Framework Act on EZK and LNV subsidies

The basis for this Order is the Framework Act on subsidies granted by the Ministry of Economic Affairs and Climate Policy and the Ministry of Agriculture, Nature and Food Quality [Kaderwet EZK- en LNV-subsidies], which allows the Minister to grant subsidies for activities in line with the policy for energy and sustainability, innovation and/or climate and to set rules on this in a Ministerial Order.

## 4. Impact

This Scheme should provide the basis for scaling up electrolyser capacity in the Netherlands and significantly reduce the technical and financial risks for succeeding projects. It must enable easier and cheaper implementation of future

projects. This must also to able to achieve the national targets for 2030, i.e. 3 to 4 GW of electrolysis capacity and a 60% reduction in $CO_2$, more efficiently. The 2024 opening round is expected to achieve at least 200 MW of electrolysis with an annual hydrogen production of at least 20 kilotonnes and an annual emission reduction of at least 110 kilotonnes of CO2 by 2030. In addition, the projects contribute to the development of electrolysis technology necessary for large-scale $CO_2$ reduction.

4.1 The business community

This Scheme for scaling up electrolysis gives the business community a picture of how the government will support renewable hydrogen production. The Scheme should support projects with a cumulative capacity of 200-500 MW. The aim is also to carry out multiple projects so that different parties can gain experience in different places. A number of five projects are envisaged, ensuring at least two projects by allowing a project to request up to half of the available budget. The frequent consultation and information sessions during the drafting of the Scheme clearly showed sufficient interest in participating in the Scheme, including from companies with projects already in preparation. At least 10 to 15 applications are expected.

4.1 Individuals

This Scheme does not have any direct impact on individuals. Implementation of the initial electrolysis projects may alter the living environment of certain individuals; the underlying hydrogen ambitions will certainly have noticeable effects. Hydrogen is now abstract for many people, but it will become tangible with the implementation of the first projects.

4.3 Local government

This Scheme will also have as an indirect effect that more and more local authorities are confronted with applications for permits for electrolysers.

## 5. Monitoring and evaluation

This adapted Scheme is the result, inter alia, of an evaluation of the OWE. During the lifetime of this Scheme, cost developments and the functioning of subsidised projects will be monitored with annual progress reports. This monitoring is set up as part of the Climate Policy Monitor; After the opening period in 2024, an evaluation shall also take place focusing on the design of the derogation and selection criteria. This review will be part of the Strategic Review of the Agenda and the broader review of national climate policies.

## 6. Execution

Implementation of this Subsidy Scheme falls to the RVO, which is part of the Ministry of Economic Affairs and Climate Policy (hereinafter ‘the Ministry of EZK’). RVO is responsible for monitoring and enforcing this Scheme.

The RVO reviewed the Scheme for its effectiveness and user-friendliness for subsidy applicants and the RVO. This Scheme is deemed to be feasible and enforceable.

## 7. Financial impact, regulatory burden, implementation and enforcement costs

7.1 State budget

During the 2023 Spring decision-making process, a total of EUR 1 000 million was mobilised for this Scheme and added to Article 4 of the ESA budget. These funds are earmarked for the period from 2024 to 2042, with the total committed budget earmarked for 2024. The funds come from the Climate Fund and are requested through a spending plan approved by the Ministry of Finance. The funds are expected to become fully compulsory by mid-2024 following the adoption of the subsidy decisions.

7.2 Regulatory burden

The Scheme provides a subsidy for a long period of time. An operator makes a subsidy application once and then receives advance payments for a number of years. The administrative burden consists of one-off costs incurred in submitting a subsidy application, applying for the determination of the grant, and annual costs for administrative operations during the subsidy period. In total, participation requires the following administrative actions (assuming a duration of 19 years, i.e. the average result per project):

- Grant application (project plan, feasibility study, consent declaration of site owners, transport indication, knowledge of delegated acts) (1x)
- Annual Implementation Progress Reports (5x)
- Final Implementation Report (1x)
- Five-year certification (2x), may also be annual certification (then 10x)
- Annual audit for certification (10x)
- Annual review of calculated advances (15x)
- Annual renewable nature statement and ≥ 70 % greenhouse gas emission reduction (10x)
- Biennial reporting on progress report during production (5x)
- Subsidy calculation application (1x)
- Provide information for the appropriate assessment test (minimum 2x)

The costs of submitting a subsidy application consist of filling in a digital application form and collecting the necessary mandatory annexes, such as a project plan, pending permits and a feasibility study. Often, not only are the annexes themselves needed to submit the subsidy application, they are also part of project preparation itself and are needed to implement the project. A feasibility study is also common for proper project preparation. In this regard, the feasibility study mainly involves additional costs to verify that it contains all the required parts.

To demonstrate compliance with the sustainability requirements, beneficiaries must use certification Schemes. For certification, companies must have their project audited once by an independent auditor.

RVO sends an annual decision fixing the advance payment for the previous year. Four hours each year are included in the calculation of the burden to take note of this.

The expected administrative burden of the Scheme totals EUR 915 000, as shown in the table below. This calculation follows from the expectation that 20 projects will submit an application, 5 of which will end up receiving a subsidy. The estimated cost of the annual audits is EUR 7 500 per audit. Traders are expected to take eighty hours once for the application, 10 hours for the application, and for the mandatory reporting on average 80 hours per year. The calculation uses an hourly rate of EUR 54 here.

This is acceptable given the objective and scope of the Ministerial Order. This is because the available subsidy budget of EUR 250 000 000 represents 0.09% of the total.

| | Number of projects | Qty (hours) | Rate (€) | Years | Total one-time costs | Total annual costs |
|---|---|---|---|---|---|---|
| **Application** | 20 | 80 | 54 | 1 | 86,400 | |
| **Preparation for annual certification audit** | 5 | 24 | 54 | 10 | | 64,800 |
| **Annual certification audit** | 5 | 1 | 7,500 | 10 | | 375,000 |
| **Certification every 5 years** | 5 | 80 | 54 | 2 | | 43,200 |
| **Annual reports** | 5 | 80 | 54 | 15 | | 324,000 |
| **Annual reviews of info** | 5 | 4 | 54 | 15 | | 16,200 |
| **Calculations** | 5 | 20 | 54 | 1 | 5,400 | |
| **TOTAL** | | | | | **91,800** | **823,200** |

7.3 Implementation and enforcement costs

The procedure for applying for, assessing and paying the subsidy corresponds with subsidies under the Framework Decision on National EZK and LNV subsidies and subsidies under the SDE++ Decree. This allows RVO to implement the Scheme efficiently and to draw on the experience of these decisions.

The certification of the subsidy recipients shall enable the eligible production of fully renewable hydrogen to be determined in a robust manner in each case, allowing additional information to verify compliance with the additionality conditions and the 70 % requirement.

## 8. Consultation and testing

8.1 Market consultation

At the start of June 2022, the Ministry of EZK and RVO organised an information session from the National Hydrogen Programme[4] providing a detailed explanation of the content of Delegated Regulations (EU) 2023/1184 and 2023/1185. This information session also explained how to demonstrate compliance with the additionality conditions and the 70% requirement by means of certification. Finally, during that information session, a certification pilot was announced from the Ministry of EZK and RVO between mid-May and the end of 2022.

In addition, three market consultations took place in January and February 2021, June 2021 and January 2 022 in the framework of the OWE. Since the OWE is the basis for this Scheme, the OWE consultations are also relevant to this Scheme.

8.2 Online consultation

From 6 October to 17 November 2023, the draft options for the Scheme are available on the website. https://www.internetconsultatie.nl/owe2024/b1 public consultation. The internet consultation finally received 18 responses, of which 10 were public. The petitioners come from industry (13), industry associations (2), government (1) or private persons (2). Following the consultation, the Scheme was amended in a number of four respects.

First, the previous proposal to introduce a bank guarantee for major projects has been removed. The bank guarantee is not the appropriate means of achieving the intended purpose. Second, the proposal to introduce a threshold subsidy if the electrolysis project sells its hydrogen to a party fulfilling its obligation has been removed. This was perceived by respondents as very complex while there is an alternative that can achieve approximately the same effect, namely to repeat the MFC test at the end of the project period. Third, the proposal to include a module for chain projects has been deleted. This proposal would use resources from GroenvermogenNL to subsidise chain elements. This proved impracticable in the short term to be implemented. Fourth, the implementation deadline of the projects has been adjusted to 5 years because larger projects indicated that four years are too short.

8.3 Review

A draft of this regulation is to be submitted to the Advisory Board on Testing and Regulatory Pressure (hereinafter: 'ATR'). The ATR has not selected this case for a formal opinion because it does not have a significant impact on regulatory burden.

## II. Explanatory notes by article

### Article 1.1 Definitions

This article contains definitions, some of which are explained.

Definitions of guarantee of origin for renewable electricity and guarantee of origin for renewable hydrogen are included. Guarantees of origin for renewable electricity are issued by VertiCer on behalf of the Minister pursuant to Article 73(1) (a) of the Electricity Act 1998. VertiCer, on behalf of the Minister, issues guarantees of origin for renewable hydrogen (as other gas from renewable sources) on the basis of Article 3 of the Act on the Implementation of the EU

Renewable Energy Directive for Guarantees of Origin. The Order on Guarantees of Origin and Certificates of Origin lays down detailed rules on guarantees of origin.

No definition of electrolysis or electrolyser has been included because these are common concepts in the production of hydrogen. However, the definition of *rated electric input power of the electrolyser* has been included. The nominal electric input power of the electrolyser shall be based on the maximum direct current power specified by the supplier, which can be used under nominal conditions for the production of hydrogen during continuous operation at the beginning of the service life. Article 3.4(2) requires the subsidy applicant to submit with the application the technical specification of the supplier on which it is indicated. Through that technical specification, the supplier guarantees the rated electric input power of the electrolyser. The starting point for granting the subsidy is the nominal electric input power of the electrolyser.

The definition of *hydrogen production facility* makes it clear that this is not only the electrolyser from which the hydrogen is produced, but also the peripheral equipment needed to produce the hydrogen.

For a large number of definitions, these are abbreviated terms so as to avoid repetition of extensive descriptions in the articles. One example of this is the concepts of directly linked *hydrogen production facility, double-connected hydrogen production facility* and *networked hydrogen production facility*. The use of abbreviated terms improves the readability of the Scheme.

**Article 2.1 Awarding a subsidy**

*Paragraph 1*

The Minister may, on application, grant a subsidy for the establishment of a hydrogen production facility and the production of fully renewable hydrogen with that hydrogen production facility.

Article 2.3 defines what this Scheme means by fully renewable hydrogen. For further explanation, see the explanatory memorandum to that Article.

The hydrogen production facility may also produce hydrogen that is not fully renewable, but the Minister only grants a subsidy for the production of fully renewable hydrogen under this regulation.

The subsidy always consists of an investment subsidy part (for the realisation of the hydrogen production facility) and an operating subsidy (for producing fully renewable hydrogen with that hydrogen production facility). The Minister will not grant a subsidy only for the construction of the hydrogen production facility, or only the production of fully renewable hydrogen with a hydrogen production facility.

*Paragraph 2*

At the time of each call for tenders, a subsidy is available up to a certain subsidy ceiling. Each year, the Minister shall determine the period for submitting applications and the subsidy ceiling in an opening decision.

*Paragraph 3*

On the basis of paragraph 3, the Minister may also determine, in the opening decision setting out the subsidy ceiling and the submission period, which percentage of the subsidy ceiling can be granted maximum per subsidy recipient.

**Article 2.2 Criteria**

This article sets out a number of criteria to be met by the subsidy recipient:

- the nominal electrical input power of the electrolyser is at least 0.5 MW (paragraph 1(a));
- the fully renewable hydrogen subsidised must be produced by electrolysis of water and not, for example, by brine electrolysis (paragraph 1(b));
- if the hydrogen production facility also produces hydrogen that is not fully renewable, the greenhouse gas emission savings of the total hydrogen produced (i.e. not only the fully renewable hydrogen) must be at least 70 %, with the subsidy recipient demonstrating this in accordance with Delegated Regulation (EU) 2023/1185 (paragraph 1(c) and paragraph 2 – for further explanation, reference is made to Section 2.4 of the general part of the explanatory memorandum);
- the electrolyser must be physically connected with a direct line to one or more renewable wind or solar power generating facilities without intervention of the public electricity network (a directly connected water generating installation, paragraph 1(d), 1°), or be physically connected to the electricity grid with a connection (a networked water generating facility, paragraph 1(d), 2°), or connected to both a direct line and a connection to the electricity grid (a double-connected water generating facility, paragraph 1(d), 3°). In the case of a directly connected hydrogen production facility, the necessary electricity comes from one or more renewable power generating facilities from wind or solar energy. These wind or solar farms do not have to be the press of the subsidy recipient itself.

**Article 2.3 Fully renewable hydrogen**

This Article determines whether hydrogen is considered to be fully renewable for the purposes of this Scheme. These are the additionality conditions laid down by the European Commission. It is aligned to the Delegated Regulation (EU) 2023/1184. The wording ‘fully renewable hydrogen’ has been chosen in this Scheme because additionality conditions impose more stringent requirements on the renewable nature of hydrogen than those laid down in the Act on the Implementation of the EU Renewable Energy Directive for Guarantees of Origin and the Regulation on guarantees of origin and certificates of origin.

In order to obtain approval from the European Commission, this Scheme is subject to the additionality conditions.

In order to distinguish between hydrogen that is renewable under the additionality conditions and hydrogen that does not meet those additional requirements of the additionality conditions, the Scheme uses the wording ‘fully renewable hydrogen’ for hydrogen that is renewable under the additionality conditions.

The wording ‘hydrogen that is not fully renewable’ is used in the Scheme for hydrogen that is not renewable at all (such as hydrogen produced with an SMR) and for hydrogen that is renewable according to the criteria set out in the EU Renewable Energy Directive Implementation Act for Guarantees of Origin and the Regulation on Guarantees of Origin and Certificates of Origin, but does not meet the additionality conditions.

For hydrogen that is renewable according to the criteria set out in the EU Renewable Energy Directive Implementation Act for Guarantees of Origin and the Regulation on Guarantees of Origin and Certificates of Origin, VertiCer – mandated by the Minister – issues guarantees of origin for hydrogen. Article 1.1 contains a definition of guarantee of origin for hydrogen. VertiCer imposes less stringent requirements on the renewable nature of hydrogen than the requirements set by the European Commission in the additionality conditions. Therefore, renewable

hydrogen for which guarantees of origin for hydrogen have been issued is not necessarily the same as fully renewable hydrogen.

For a further explanation of the additionality conditions, see Section 2.4.1 of the general part of the notes.

**Article 3.1 Division of subsidy ceiling**

*Paragraph 1*

The Minister distributes the subsidy ceiling on the basis of ranking. An application that has been rejected on the basis of Article 3.11 of these Regulation (or under the Awb) falls outside of ranking.

*Paragraph 2*

The starting point is that the ranking is based on the ranking amount included in the application. The lower the ranking amount included in the application, the higher the application is in the ranking. The method of calculating the ranking amount is set out in Article 3.2.

*Paragraph 3*

In principle, the Minister divides the subsidy ceiling on the basis of ranking (paragraph 1). This paragraph 3 applies when the subsidy ceiling is almost full and there are shall several applications with the same ranking amount, with one or several applications still falling within the subsidy ceiling but not all. The award of all these applications (all of which are the last in the ranking and thus have a relatively high ranking) cannot be accepted because the subsidy ceiling would be exceeded. In the event that the subsidy ceiling would be exceeded by the payment of two or more applications with the same ranking amount, the Minister shal decide between those applications on the basis of this paragraph.

**Article 3.2 Ranking amount EUR/MW**

*Paragraph 1*

In short, the ranking amount is the requested subsidy intensity per nominal electric input power of the electrolyser divided by the amount of subsidy requested per MW of power.

*Paragraph 2*

The method of calculating the ranking amount is set out in paragraph 2. The ranking amount shall be calculated by dividing the sum of the investment subsidy amount requested (the eligible costs of realisation of the hydrogen production facility referred to in Article 5.2, up to a maximum of the percentage referred to in Article 5.3), investment and operating subsidy (s) previously provided and the maximum operating subsidy amount referred to in Article 6.5 by the electrolyser’s nominal electrical input power.

**Article 3.3. Application details**

*Paragraph 1*

The means of applying for a subsidy can be found on RVO’s website at the following address: https://mijn.rvo.nl/eloket/login-start.html. The Minister may exclude incomplete applications under Article 4:5 of the Awb.

*Paragraph 2*

Subsections (a) and (b) concern some basic information that the subsidy applicant must provide, such as name and address. Subsection (c) states that he must state in the application how many years the operating subsidy part shall cover. The period should be between 5 and 10 years. They do not need to be calendar years, but they must be consecutive, whole years. Within these conditions, the subsidy applicant may indicate the duration of the period itself.

Subsection (d) states that the subsidy applicant must submit a project plan with the application. The project plan should include at least milestones, as well as the planned start date of the activities for the realisation of the hydrogen production facility, the planned date of realisation of the hydrogen production facility, and a budget.

*Paragraph 3*

A subsidy applicant with an ETS company must indicate in the application whether there are revenues or avoided costs for that company from the tradable greenhouse gas emission allowance system referred to in Title 16.2 of the Environmental Management Act. For ETS companies, revenues and avoided costs shall be taken into account generically when calculating the final correction amount referred to in Article 6.12 and the provisional correction amount referred to in Article 6.13. For further explanation, see the explanatory note to those articles.

*Fourth and fifth paragraphs*

Pursuant to the paragraph 4, the submission of a written offer from a (future) supplier to supply renewable electricity that enables the subsidy applicant to comply with Articles 3 to 8 and 11 of Delegated Regulation (EU) 2023/1184 is necessary if there is a networked hydrogen production facility or a double-connected hydrogen production facility. It must be plausible that the requirements to qualify hydrogen as fully renewable as referred to in Article 2.3 are met. At the time of submission of the subsidy application, it is not always known whether the provider can actually supply the renewable electricity and whether the subsidy applicant shall purchase the renewable electricity. The renewable power purchase agreements necessary to meet the requirements referred to in Article 2.3 must be submitted to the final report pursuant to Article 4.7. The offer must contain at least the information referred to in paragraph 5.

**Article 3.4 Subsidy parameters details**

*Paragraph 1*

The data referred to in the paragraph 1 are necessary to determine the ranking amount of the application (Article 3.2), to determine the amount of subsidy applied for per kg of fully renewable hydrogen to be produced (Article 3.11(1)(o) and (2)) and to calculate the amount of the subsidy and the advances (Sections 5 and 6).

Articles 5.2 and 6.4 refer to the amount of the investment subsidy and the amount of the operating subsidy (Article 3.4(1)(b) and (c) refer to this). The production price of fully renewable hydrogen (Article 3.4(1)(f) refers to this) is dealt with in Article 6.11.

*Paragraph 2*

The supplier’s technical specification indicates the electrolyser’s rated electrical input power used for the subsidy.

**Article 3.5 Environmental permits**

*Paragraph 1*

Under paragraph 1, the subsidy applicant must provide a copy of the environmental permit necessary for the environmentally harmful activity referred to in category 4.2 of Annex I to Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 2010, 334).

Paragraph 2

Paragraph 2 provides that, in the case of a hydrogen production facility in a state works, the subsidy applicant shall provide a copy of the required environmental permit with the application.

Paragraph 3

Paragraph 3 refers to the situation where an application is submitted for a directly connected hydrogen production facility or a double-connected hydrogen production facility, where the electricity used with a direct line is taken from an onshore wind or solar energy production facility and that installation for wind or solar has not yet been built. The subsidy applicant must provide a copy of the environmental permit for a construction activity required under Article 5.1(a) of the Environment and Planning Act, even if the holder of this environmental permit is different from the applicant.

If a subsidy applicant has still submitted the application for the relevant permit under the General Provisions of Environmental Law Act, the competent authority will act in accordance with the General Provisions of Environmental Law Act. If the permit is granted, it is automatically an environmental permit, pursuant to Article 4.13 of the Implementation Act Environment and Planning Act.

*Paragraph 4*

As a starting point, the subsidy applicant also provides a copy of a necessary environmental permit for the hydrogen production facility when submitting the subsidy application. If that is not possible because a necessary environmental permit as referred to in paragraphs 1 or 2 has not yet been issued at that time, the subsidy applicant must enclose a copy of the pending application for that environmental permit. In addition to the application form, it is also important to demonstrate that the application has been accepted by the competent authority and has been processed, as well as supporting documents, including the Quantitative Risk Analysis (QRA).

**Article 3.6. Feasibility study**

*Paragraph 1*

This paragraph provides that a feasibility study is required when applying for a subsidy. The feasibility study shall address the reality of the project and provide an insight into both the short and long-term forecasts of the applicant.

*Paragraph 2 and 3*

Paragraph 2 indicates what should be included in the feasibility study.

Paragraph 2(b) provides that a hydrogen yield calculation is necessary. It is important to have a reliable forecast of the total amount of hydrogen that the applicant expects to produce during the period covered by the operating subsidy.

Due to the ageing of the stacks, hydrogen production decreases on an equal number of full-load hours. The hydrogen yield calculation will therefore have to provide a forecast of the expected amount of fully renewable hydrogen production to be produced per calendar year, as set out in paragraph 3(a). Paragraph 3(b) refers to the energy conversion efficiency from electricity to hydrogen at the start of the life span. It concerns the electricity consumed in the stacks, which means: electricity excluding electricity used in all other components (transformers, rectifiers, compressors, etc.). If efficiency is given in percentage or per unit of energy, this should be done on the basis of the higher heating value of hydrogen.

Another part of the feasibility study is an operating calculation (paragraph 2(e)). Paragraph 4 lays down requirements for the calculation of the operating calculation.

**Article 3.7 Consent of the site owner**

*Paragraph 1*

If the subsidy applicant is not the site owner, it needs the consent of the site owner for the installation and operation of the hydrogen production facility.

*Paragraph 2*

The template for the consent declaration is found on RVO's website (www.rvo.nl).

**Article 3.8 Electricity transmission indication**

*Paragraph 1*

In the case of a hydrogen generating facility connected to the electricity grid, a statement from the network operator on the availability of transport capacity (a transport indication) is required. With the transmission indication, the system operator provides an indication of whether transmission capacity is available on the electricity system. This obligation aims to overcome transport capacity problems and avoids granting a subsidy decision to a hydrogen production facility on a site where it is clear in advance that there will be insufficient transport capacity.

The system operator shall not issue this transmission indication if there is insufficient transmission capacity and is not expected in that part of the electricity system. If there is currently no transmission capacity available, but the network operator can do so within the period for the realisation and commissioning of the hydrogen generating installation (5 years, as indicated in Article 4.3), the network operator shall issue a transmission indication.

A transport indication does not guarantee that the planned hydrogen generating facility can be connected to the electricity grid, and that the electricity can be transported to the hydrogen generating facility. This transport indication is not a formal application for a Connection and Transport Agreement. For a formal application, the subsidy applicant will have to use the regular procedure with the network operator where it wishes to submit the application.

*Paragraph 2*

On the RVO site (www.rvo.nl) is the template for the statement of the transport indication statement available through a reference to a form on the sites of the network operators, who issue the declaration.

*Paragraph 3*

The transport indication must be recent (not older than 4 months).

**Article 3.9 Consent for authorised representatives to provide information**

*Paragraph 1*

Paragraph 1 provides that the subsidy applicant must attach to the application a declaration stating that they agree that the Minister will provide VertiCer with the information on the hydrogen production facility contained in the application and the subsidy decision. The Minister mandated Verticer to implement, inter alia, the issuing of guarantees of origin). This statutory requirement also provides the Minister with sufficient grounds to supply the data to VertiCer.

*Paragraph 2*

This paragraph provides that the application is accompanied by a declaration by which the applicant states that he agrees that the Minister uses the measurement data received by the Minister for VertiCer in the context of their duties in the provision of guarantees of origin for the calculation of the subsidy and advance payments. This provision also provides VertiCer with sufficient grounds to supply the data to the Minister.

**Article 3.10 Subsidy application decision timeframe**

*Paragraph 1*

This paragraph sets out the period within which the Minister must take a decision on the subsidy application. This period, which is 13 weeks, starts to run from the end of the opening period, that is to say, the period for the submission of grant applications. The opening period shall be determined by the Minister in the opening decision.

*Paragraph 2*

If the Minister is unable to give a decision on an application within the thirteen weeks period, he may extend the period for taking a decision on that application once by no more than 13 weeks.

**Article 3.11 Grounds for refusal**

This Article sets out the grounds for rejection against which an application for a subsidy is assessed. Three of them are highlighted here.

Paragraph 1(c) provides that the Minister shall reject the application if the requested period covering the operating subsidy is less than 5 years or more than 10 years. He or she shall also reject the application if the period applied for does not consist of consecutive years (this does not have to be calendar years but it must be full years). For example, the requested period should not exist for parts of years, for example seven and a half years.

Paragraph 1(g) provides that the Minister shall reject the application if it is implausible that the requirements to qualify hydrogen as fully renewable as referred to in Article 2.3 are met, for example in the event that the requirement that renewable wind or solar power purchase agreements shall be available for the electricity will not be met.

In paragraph 1(o), the ground for rejection is the situation where the amount of subsidy requested exceeds EUR 9 per kg of fully renewable hydrogen to be produced. Paragraph 2 sets out the formula on the basis of which the amount of subsidy applied for must be calculated.

For further explanation, see paragraph 2.8.2 of the general part of the explanatory memorandum. In addition to the grounds in Article 3.11, the grounds for rejection are also included in the subsidy agreement of the Awb.

**Article 3.12 Test of appropriate incentive**

On the basis of this article, the Minister briefly curtails the subsidy in the event of overstimulation. There is an overincentive when more aid is provided than is allowed under European State aid frameworks. In such a case, the Minister may deduct from the subsidy under this Scheme the benefits that the subsidy recipient receives or benefits from aid measures (which may be subsidies, but also tax advantages) for the construction of the hydrogen production facility and for the production of fully renewable hydrogen with the hydrogen production facility (of course, provided that these other aid measures have not been a ground for rejection as referred to in Article 3.11).

With this correction, the Minister implements Article 7 of the Framework Act on EZK and LNV subsidies. On this basis, in so far as the subsidy of a subsidy is contrary to obligations incumbent on the State under the treaty, the Minister has the general power to refuse the subsidy, set it at less than per the subsidy decision, withdraw the subsidy or alter it to the detriment of the recipient.

Article 4.8 sets out the information which the subsidy recipient must submit to the Minister so that the Minister can check whether there is an appropriate incentive.

**Article 3.13 Transparency clause**

On subsidies of more than EUR 100 000, the Minister includes information in the European Commission's Transparency Aid Module (State Aid Transparency – Public search page (europa.eu)). This is to implement paragraph 3.2.1.4 of the Environmental and Energy Framework, which includes transparency obligations in the granting of State Aid.

**Articles 4.1 and 4.2**

These articles aim to ensure that the subsidy recipient complies with the requirement of at least 70 % greenhouse gas emission reduction referred to in Article 2.2(1)(c), and the requirements applicable under Article 2.3 to ensure that the hydrogen produced is fully renewable (the additionality conditions). For further explanation, see paragraph 2.4 of the general part of the explanatory memorandum.

**Article 4.3 implementation and commissioning period**

*Paragraph 1*

The subsidy recipient must establish the hydrogen production facility as soon as possible and put into service as soon as possible after completion and at the latest within 5 years from the date of the decision to grant the subsidy.

*Paragraph 2 and 3*

The subsidy recipient must carry out the hydrogen production facility in accordance with the project plan as submitted with the application. It must

operate the hydrogen production facility according to the data submitted with the subsidy application, and this obligation applies until the subsidy is determined.

*Fourth and fifth paragraphs*

These paragraphs contain information obligations for the subsidy recipient to notify the Minister without delay of the date of entry into service and any delays in completion or entry into service as soon as it is clear that the delay is plausible.

**Article 4.4 Dispensation**

*Paragraph 1*

The Minister may, at the prior request of the subsidy recipient, grant exemption for a maximum period of two years for completion and use as referred to in Article 4.3(1). This extends the deadline from 5 to a maximum of 7 years. This extension does not alter the duration of the subsidy. The period covered by the operating subsidy, as indicated in the application and included in the subsidy decision, shall not be shorter or longer by the exemption.

*Paragraph 2*

Exemption is also possible for essential changes. Here too, the subsidy recipient must submit the request prior to the essential changes in this case.

*Paragraph 3*

The Minister may attach conditions to the exemption. The exemption is a decision within the meaning of the Awb.

**Article 4.5. Hydrogen production facility in the Netherlands**

This article states that the hydrogen production facility is located in the Netherlands, the territorial sea or the Dutch exclusive economic zone. The Minister does not grant a subsidy for, for example, a hydrogen production facility that is located just across the border in a neighbouring country.

**Article 4.6. Progress report on the implementation of hydrogen production facility**

*Paragraph 1*

The subsidy recipient must submit an interim progress report on the realisation of the hydrogen production facility once every calendar year until the hydrogen production facility is completed.

*Paragraph 2*

This member specifies the information to be included in the progress report.

**Article 4.7 Final report on completion of hydrogen production facility**

*Paragraph 1*

When the hydrogen production facility has been completed and put into service, the subsidy recipient must provide a final report. This must be done within 13 weeks of its entry into service.

*Paragraph 2*

Paragraph 2 indicates what information must be included in the final report. The data largely correspond to data to be provided for the appropriate stimulation test referred to in Article 4.8. An additional part of the final report is the description of the experience with the implementation of the hydrogen production facility. The statement of costs incurred should be more detailed in the final report than in the table for the appropriate assessment test, while the final report does not need to include the revenue to be received.

*Third and fifth paragraphs*

RVO's website, www.rvo.nl, contains the final report and the template and control protocol for an accountant's product to be determined.

*Paragraph 4*

Article 2.3 provides that in the case of networked hydrogen production facilities and double-connected hydrogen production facilities, renewable power agreements must cover the supply of renewable electricity from wind or solar energy. Renewable power contracts for the first 3 years of commissioning shall be submitted to the final report.

**Article 4.8 Overview of costs and benefits test appropriate incentives**

*Paragraph 1*

The subsidy recipient is obliged to send the data referred to in paragraph 1 to the Minister one year after the hydrogen production facility has started operation or at the request of the Minister. The Minister uses this information to test appropriate incentives, checking that the subsidy recipient does not receive more subsidy than is permitted under, inter alia, the environment and energy aid guidelines.

For the purposes of carrying out the test, the Minister joins the Policy Rule Test Appropriate Incentive and cumulation test under the Decree on Sustainable Energy Production and Climate Transition (Decree on sustainable energy production and climate transition) (Government Gazette 2022, 17825).

The information to be provided by the subsidy recipient for the test is largely consistent with data to be provided in the final report on the realisation of the hydrogen production facility referred to in Article 4.7.

The auditor's product to be determined, as referred to in paragraph 1(e), shall normally be the auditor's product which has already been provided to the Minister pursuant to Article 4.7 in the context of the provision of data for the final report.

*Paragraph 2*

On the RVO website, www.rvo.nl, the means of providing the data for the test contains appropriate stimulation and the model and control protocol for an auditor's product to be determined.

*Paragraph 3*

Paragraph 1 states that the subsidy recipient must send the data to the Minister one year after the hydrogen production facility is put into service. Under paragraph 3, the Minister may, at the request of the subsidy recipient, extend the 1-year period once.

*Paragraph 4*

Changes in the income of the subsidy recipient which may be relevant in determining whether there is an appropriate incentive must notify the Minister.

**Article 4.9 Hydrogen production progress report**

*Paragraph 1*

From the moment the hydrogen production facility is put into service until the determination of the subsidy, the subsidy recipient must provide an interim progress report every 2 calendar years.

*Paragraph 2*

This member specifies the information to be included in the progress report.

**Article 4.10 Dissemination of knowledge**

The Minister may use the progress reports and the final report for a public, wide dissemination of the non-business sensitive knowledge and information acquired. What matters is that a global picture is given and the information is not traceable to company level. These include data on average efficiency (average for all subsidised projects), data on the speed of degeneration of the stacks and data on the variation (average for all subsidised projects) in the number of annual full load hours due to annual fluctuations in the supply of solar and wind electricity.

Making the knowledge and learning experiences available can speed up the development of hydrogen projects and reduce costs for followers by learning from other projects. The reporting allows the Minister to make this information available centrally and to better monitor the progress of the upscaling of hydrogen production by electrolysis.

**Article 4.11 Other data provision**

*Paragraph 1*

A notification that the recipient of the subsidy is subject to a request for, for example, bankruptcy can of course have an impact on the subsidy. A declaration of bankruptcy (imminent) may affect the realisation of the hydrogen production facility and the production of the hydrogen.

Therefore, the subsidy recipient must inform the Minister without delay. This may result in the Minister, pursuant to Article 4:48 of the Awb, revoking the decision granting the subsidy or amending it to the detriment of the recipient of the subsidy. On the basis of Article 4:56 of the Awb, advance payments are automatically suspended.

*Paragraph 2*

This paragraph provides that the subsidy recipient must inform the Minister if he expects that he does not comply or will no longer be able to comply with obligations linked to the subsidy.

*Paragraph 3*

At the time of application, the beneficiary of the subsidy states whether it has an ETS company (whether income or avoided costs result from the tradable greenhouse gas emission allowance system referred to in Title 16.2 of the

Environmental Management Act). If changes occur (a subsidy recipient is no longer an ETS company, or becomes an ETS company), the subsidy recipient must notify the Minister.

*Paragraph 4*

On the basis of this paragraph, the Minister may ask the subsidy recipient to provide information which the Minister considers necessary in the context of granting the subsidy.

**Article 4.12 Evaluation obligation**

It follows from Article 4:24 of the Awb that if a subsidy is based on a legal requirement, a report on the effectiveness and effects of the subsidy in practice must be published at least once every 5 years, unless otherwise provided for by law. Since, when drawing up such an evaluation report (in this case by or on behalf of the Ministry of Economic Affairs and Climate Policy), it may also be important to obtain information from the subsidy recipient, the subsidy recipient's duty to cooperate in this evaluation is included, to the extent that they can reasonably be required to cooperate.

**Article 5.1 Scope of Section 5**

Section 5 applies to the investment subsidy part, which relates to the realisation of the hydrogen production facility.

**Articles 5.2 and 5.3 Calculation method of investment subsidy amount and maximum investment subsidy amount**

These articles refer to the amount of the investment subsidy.

The investment subsidy amount is the sum of the eligible costs of realisation of the hydrogen production facility (Article 5.2). (Article 5.4 specifies the eligible costs.)

Article 5.3 contains the maximum permitted investment subsidy amount. The nature of the subsidy for the investment subsidy part under the Scheme means that the subsidy decision cannot indicate the amount of the investment subsidy: indeed, a percentage of the eligible costs of the investment is reimbursed and the amount of the investment subsidy depends also on the costs actually eligible.

The maximum investment subsidy amount is included in this article as a percentage. It shall not exceed 80 % of the sum of the eligible costs.

If another investment subsidy has previously been granted for the realisation of the hydrogen production facility, for example from the DEI +, this subsidy will be taken into account, pursuant to subsection (b), in order to determine whether or not the percentage is exceeded. The maximum investment amount shall not exceed 80 % of the sum of the eligible costs, and shall then be reduced by the investment subsidy/subsidies previously provided. The amount can never be negative. For the sake of completeness, reference should be made to the grounds for rejection set out in Article 3.11(1)(m) and (n). Where the cases of (previous) subsidy mentioned in those sections are at issue, no grant can be applied for and therefore Article 5.3(b) is not applicable either.

**Article 5.4 Eligible costs for the realisation of hydrogen production facility**

This Article concerns the eligible costs of the hydrogen production facility. This concerns only the costs necessary for the realisation of hydrogen production

(paragraph 1). Paragraph 2 lists a number of possible cost items. Paragraph 3 excludes certain cost items.

**Article 5.5 Provision of advance payments**

*Paragraph 1*

The subsidy recipient receives the advances for the investment subsidy part without having to apply for it.

*Paragraph 2 and 3*

The Minister shall make the advance payments on a quarterly basis, within two weeks of 1 January, 1 April, 1 July and 1 October, for the costs to be incurred in that quarter.

Only the first advance payment is that different. The first advance payment shall be made within 2 weeks of the start of the activities.

As a general rule, the start of activities is: the planned start date as set out in the project plan submitted as part of the subsidy application.

It may be that at the planned start date, the project plan does not yet have a subsidy decision. In this case, the start of activities shall be deemed to be: the day after the decision to grant a subsidy was sent.

*Paragraph 4*

No advance payments are made if the necessary environmental permits have not yet been granted. Paragraph 4 refers to this.

**Article 5.6 Method of calculating advance payments**

*Paragraph 1*

An advance reimburses 90 % of the investment subsidy amount for that quarter. The method of calculating advances is set out in the annex to the Scheme.

*Paragraph 2*

The provision of an advance shall be based on the eligible costs to be incurred between two milestones in the project plan, as set out in the methodology set out in the Annex. If the costs incurred differ from the costs as budgeted, the Minister must know this to be able to adjust the future advances. This adjustment is made during the advance payment and must be distinguished from the ex-post adjustment under Article 5.7.

**Article 5.7 Adjustments to advance payments**

*Paragraph 1*

When the subsidy recipient sends the final report on the realisation of the hydrogen production facility, the hydrogen production facility is completed and in use. On the basis of the final report, the totality of the advances granted for the investment subsidy part is adjusted and not only when the subsidy is established (this would then only be after the end of the period covered by the operating part).

*Paragraph 2*

Adjustment to 100 % of the investment subsidy is made if less than 100 % of advance payments have been made. The Minister shall pay the remaining part within 6 weeks of the decision to adjust the advance.

*Paragraph 3*

It may also happen that advance payments exceed 100 % of the amount of the investment subsidy. The Minister shall then recover the advance paid in excess.

**Article 6.1 Scope of Section 6**

Section 6 applies to the operating subsidy, which concerns the subsidy for the production of fully renewable hydrogen.

**Article 6.2 Details of subsidy award decision**

The subsidy decision states the period covered by the operating subsidy part. The subsidy recipient shall indicate that period in the application. The period may not be less than 5 years and not longer than 10 years (otherwise the application shall be rejected). The period should also consist of consecutive, whole years.

The requested production price of fully renewable hydrogen is set out in the subsidy decision, as is the total amount of fully renewable hydrogen to be produced during the period covered by the operating subsidy part. The beneficiary of the subsidy indicated that total quantity in its application. The Minister shall calculate, on the basis of that total quantity, the average quantity of fully renewable hydrogen to be produced per calendar year during the period covered by the operating subsidy and also the average quantity per calendar month. These are also included in the subsidy decision.

**Article 6.3. Start date of period of operating subsidy part**

This article lays down the starting date of the period covered by the operating subsidy, namely the moment when the hydrogen production facility is put into service (paragraph 1).

***Paragraph 2 provides for a derogation from paragraph 1 in order to take into account other grants in the case of the operating subsidy. If a subsidy has already been granted under the IPCEI wave 2, the period covered by the operating part starts at the time of the commercial entry into service of the production facility. This paragraph guarantees that there will be no undue cumulation of subsidy if a subsidy has also been granted under the IPCEI wave 2.*****Article 6.4. Calculation method of operating subsidy amount**

*Paragraph 1*

The operating subsidy amount compensates (partially or entirely) for the difference between the average production price of fully renewable hydrogen and the average cost of producing ‘grey’ hydrogen (hydrogen from a methane source, such as natural gas) with an SMR.

*Paragraph 2*

The method of calculating the amount of the operating subsidy is set out in paragraph 2. An amount shall be calculated per calendar year during the period

for which the operating subsidy is awarded and then added together. The sum is the operating subsidy amount.

*Paragraph 3*

The amount per calendar year referred to in paragraph 2 shall be calculated using the formula set out in paragraph 3. The amount of fully renewable hydrogen produced in a calendar year shall be determined. This is the amount in kg of fully renewable hydrogen produced in that calendar year. Where Article 6.7 is applied, the total renewable hydrogen produced in previous calendar year shall be added (it is the fully renewable hydrogen produced in a previous calendar year and is considered to have been produced in the calendar year for which the amount is calculated as referred to in the paragraph 3).

The *produced* amount of fully renewable hydrogen determined in this way in that calendar year shall only be included in the calculation using the formula in paragraph 3 as long as that amount of fully renewable hydrogen produced in that calendar year does not exceed fully renewable hydrogen *to be produced* in that calendar year. There is thus an upper limit to the quantity produced that is included in the calculation. The subsidy decision states the annual average quantity of fully renewable hydrogen to be produced in kg. This is the amount in kg of fully renewable hydrogen to be produced in that calendar year. Where Article 6.6 applies, the total renewable hydrogen to be produced added from a previous calendar year (it is the fully renewable hydrogen to be produced in a previous calendar year that was not produced in that previous calendar year and added to the calendar year for which the amount is calculated as referred to in the paragraph 3) shall be added.

The quantity in kg of fully renewable hydrogen thus determined shall then be multiplied by the difference between the production price of fully renewable hydrogen and the final correction amount for that calendar year. The Minister shall fix the final correction amount after the end of the calendar year.

The application states the production price of fully renewable hydrogen and the Minister includes this production price in the subsidy decision. Article 6.11 refers to the production price of fully renewable hydrogen.

The Minister shall determine annually the final correction amount for the previous year. The final correction amount shall consist of the sum of the average costs of producing ‘grey’ hydrogen with an SMR in the previous calendar year, the value of guarantees of origin for renewable hydrogen and, if applicable for the subsidy recipient, the revenues or avoided costs from the tradable greenhouse gas emission allowance system. Revenues or avoided costs are only taken into account for the calculation of the operating subsidy amount for subsidy recipients who are ETS companies. It is only for ETS companies that revenues and avoided costs arise from the system of tradable greenhouse gas emission allowances referred to in Title 16.2 of the Environmental Management Act. Article 6.12 refers to the final correction amount.

*Paragraph 4*

If the production price of fully renewable hydrogen is lower than the final correction amount, the subsidy recipient would have to pay money to the Minister rather than vice versa. Therefore, in such a case, it is assumed that the amount for that calendar year is EUR 0.

*Paragraph 5*

This paragraph provides for the situation where the period covered by the operating subsidy part does not start on 1 January, which will usually be the case. It is then calculated as a proportional amount for that year.

**Article 6.5 Maximum amount of operating subsidy**

In order to comply with Article 4:31 of the Awb, this article sets out the manner in which the maximum amount of the operating subsidy is fixed. The decision to grant the subsidy does not specify the amount of the subsidy or the largest amount at which the subsidy can be set, because this is not possible. The nature of the subsidy under that Scheme means that the decision to grant a subsidy cannot indicate the amount of the operating subsidy: the final correction amount may vary from year to year, and the number of kg of fully renewable hydrogen produced per year will not be the same each year.

The maximum operating subsidy amount is calculated by multiplying the total amount of fully renewable hydrogen to be produced in kg during the period covered by the operating subsidy part (this quantity is stated in the decision to grant the subsidy) by the production price of fully renewable hydrogen (also included in the subsidy decision), deducting from the production price a lower limit set by the Minister from the amount of the correction per kg of hydrogen. For the 2024 claim period, the amount of EUR 1.7997 per kg of hydrogen is the lower limit by which the production price is corrected (see Article 4 of the Decree on the opening of Subsidy Scheme for large-scale production scaling up fully renewable hydrogen via electrolysis 2024). The lower limit is intended to reduce the financial risk to the government and to distribute the subsidy ceiling as widely as possible. Section 2.6.1.3 of the general part of the explanatory memorandum deals with the background of the lower limit.

**Article 6.6 Banked underproduction**

*Paragraphs 1, 3 and 4*

These paragraphs make it possible to carry unused eligible production into a subsequent calendar year (referred to as forward banking), but only if there is overproduction in that following calendar year.

Underproduction occurs when a subsidy recipient has produced a smaller amount of fully renewable hydrogen in a calendar year than the annual average amount of fully renewable hydrogen to be produced. In that case, the non-produced fully renewable hydrogen in that calendar year shall be added to the annual average amount of fully renewable hydrogen to be produced in a subsequent calendar year, but only if there is overproduction in that subsequent calendar year, that is, in that calendar year, more than the annual fully renewable hydrogen to be produced in that calendar year. Otherwise, the additional production space would not be necessary.

The non-produced kg of fully renewable hydrogen in a calendar year shall be added to the annual average quantity of fully renewable hydrogen to be produced from the next calendar year in which there is overproduction and, after that subsequent calendar year, if there is still underproduction, then to the calendar year after that, and further, until the total quantity of fully renewable hydrogen to be produced in kilograms as set out in the subsidy decision is reached. If there is still under-production (there is less fully renewable hydrogen produced than the total amount of fully renewable hydrogen to be produced in kg), the Minister extends the period covered by the operating subsidy. The Minister shall do so at the prior request of the subsidy recipient if it is plausible that the subsidy recipient will not produce the total quantity of fully renewable hydrogen to be produced (as stated in the subsidy application and included in the subsidy decision) within that period.

The extension shall not exceed 1 year. If the total amount of fully renewable hydrogen to be produced is produced within that year, the extension shall immediately cease, even if that year has not yet been completed.

*Paragraph 2*

This paragraph provides for forward banking in the first calendar year of the period covered by the operating subsidy part, if that period does not start on 1 January, which will usually be the case.

**Article 6.7 Banked overproduction**

This Article provides for the possibility to carry ‘overproduced’ fully renewable hydrogen into a subsequent calendar year (called backward banking), but only if less than the amount of fully renewable hydrogen to be produced in that calendar year has been produced in that subsequent calendar year. Otherwise, the additional production would not be necessary.

There is a limit on taking production into account: up to 25 % of the annual average amount of fully renewable hydrogen to be produced may be banked but a subsequent calendar year. For example, if the annual average amount of fully renewable hydrogen to be produced is 100 kg, then no more than 25 kg should be taken into account for a subsequent calendar year.

Overproduction arises if a higher amount of fully renewable hydrogen has been produced in a calendar year than the amount of fully renewable hydrogen to be produced in that calendar year. The amount of fully renewable hydrogen to be produced in a calendar year is in any case the annual amount of fully renewable hydrogen to be produced, as set out in the subsidy decision. If there was underproduction in a previous calendar year, and Article 6.6 has been applied (the underproduction was banked), this underproduction is included in the calculations, and the amount of fully renewable hydrogen to be produced in that calendar year shall be the sum of the annual amount of fully renewable hydrogen to be produced and the fully renewable hydrogen to be produced pursuant to Article 6.6 from the previous calendar year.

If production in a calendar year is higher than the amount of fully renewable hydrogen to be produced in that calendar year, that excess production of fully renewable hydrogen shall be considered as produced in a subsequent calendar year, up to a maximum of 25 % of the annual average amount of fully renewable hydrogen to be produced. That is the case only if the production in the following calendar year is less than the amount of fully renewable hydrogen to be produced in that calendar year, otherwise there is no room for additional production in that calendar year. It follows from Article 6.4(3) that the amount per calendar year does not exceed the annual average amount of fully renewable hydrogen to be produced, including the fully renewable hydrogen to be produced under Article 6.6.

The banking of overproduction (backward banking) and underproduction (forward banking) are connected: it cannot be one without the other. Linked underproduction only makes sense in a calendar year in which there is overproduction, and vice versa it only makes sense in a calendar year in which there is underproduction.

The reference in Article 6.6(1) and (2) to adding fully renewable hydrogen to the annual average ‘in a subsequent calendar year’, and Article 6.7 of fully renewable hydrogen qualifying as produced ‘in a subsequent calendar year’, expresses that backward and forward banking is not limited to the following calendar year after the calendar year in which the underproduction or overproduction occurred, but also to subsequent calendar years, if this is necessary to clear the underproduction or overproduction.

**Article 6.8 Provision of advance payments**

*Paragraph 1*

The Minister shall grant annual advances during the period covered by the operating subsidy. The subsidy recipient does not have to apply for this to receive an advance.

*Paragraph 2*

The method of calculating the annual advance payment is set out in paragraph 2. The annual average amount of fully renewable hydrogen to be produced, as set out in the subsidy decision, shall be multiplied by the difference between the production price of fully renewable hydrogen and the provisional correction amount for that calendar year. The Minister determines the provisional correction amount prior to the calendar year (see Article 6.13).

The subsidy applicant states the production price of fully renewable hydrogen in the subsidy application and the Minister then includes this in the subsidy decision (Article 6.11 refers to the production price of fully renewable hydrogen).

*Paragraph 3*

The advance payments are granted on the basis of the annual average quantity of fully renewable hydrogen to be produced, as set out in the decision granting the subsidy. The premise for the granting of advances is that banking is not taken into account. However, there may be grounds to take into account banking, namely in the event that under Article 6.6 it is expected that underproduction from the previous calendar year will be added to the annual average amount of fully renewable hydrogen to be produced, so that in the calendar year for which the advance is granted, the amount of fully renewable hydrogen produced in kg in that calendar year is higher than normal (i.e. higher than the annual average amount of fully renewable hydrogen to be produced, as set out in the subsidy decision). Therefore, if there is reason to assume that the actual production of fully renewable hydrogen in that calendar year will also be higher, there may be reason to align the advance payment accordingly. Paragraph 3 provides for this. At the request of the subsidy recipient, the Minister may, when providing an advance payment, take into account the total renewable hydrogen to be produced in the annual average quantity of hydrogen to be produced plus the underproduction (the non-produced, fully renewable hydrogen in a previous calendar year). The annual advance payment is then calculated on the basis of a higher amount of fully renewable hydrogen to be produced in that calendar year and on the assumption that this higher amount will also be produced, resulting in a higher advance than if banking is not taken into account.

*Paragraph 4*

As the period of the operating subsidy part will usually not start on 1 January, this paragraph regulates how the advance payment should be made in the first calendar year and in the last calendar year.

**Article 6.9 Providing monthly amounts**

*Paragraph 1*

The Minister shall pay the annual advance in monthly amounts. The subsidy recipient does not have to apply for it.

*Paragraph 2*

This paragraph sets out the method of calculating the monthly amounts. The monthly amount shall be calculated in the same way as the annual advance payment, with one difference: the monthly amount is 80 %, whereas the annual advance payment is 100 %.

*Paragraph 3*

The monthly amounts shall be provided on the basis of the annual average quantity of fully renewable hydrogen to be produced, as set out in the subsidy decision, divided by 12 to arrive at a monthly amount. Paragraph 3 provides that banking is to be taken into account. For an explanation, see the explanatory note to Article 6.8(3), which contains a similar provision.

*Paragraph 4*

As the period of the operating subsidy part will generally not start on 1 January, this paragraph provides for the calculation of the monthly amounts in the first and last calendar years.

*Paragraph 5*

The Minister may recalculate the monthly amount during the calendar year if necessary. A request for exemption in the case of a material change may be a reason (subsection (a)). Subsection (b) provides that recalculation may be carried out if the subsidy recipient does not provide the information necessary for the appropriate incentive test. Lower production may also be a reason (subsections (c) and (d)). Subsection (e) provides that, in the absence of measurement data, a recalculation may be carried out.

**Article 6.10 Adjustment of advances**

*Paragraph 1*

The Minister shall adjust the advance within seven months of the end of the calendar year. Article 6.4 sets out the method of calculating the amount of the operating subsidy. In doing so, the Minister calculates the final correction amount and not, as in the case of the advance payment under Article 6.8, the provisional correction amount.

As provided for in Article 6.4(3), the amount of fully renewable hydrogen produced in kilograms in that calendar year, including the fully renewable hydrogen identified pursuant to Article 6.7 from a previous calendar year, is counted up to the annual average amount of fully renewable hydrogen to be produced, including the fully renewable hydrogen to be produced under Article 6.6. In the case of a partial year, a proportional quantity is calculated, as follows from Article 6.4(5).

The amount of fully renewable hydrogen thus determined in kg in that calendar year shall only be subsidised for those produced fully renewable hydrogen for which guarantees of origin for renewable hydrogen have been issued. Where necessary, the quantity shall also be corrected on the basis of the declaration of compliance of the hydrogen produced with the requirements for full recyclability referred to in Article 2.3 (the declaration is required annually pursuant to Article 4.2).

The reason that correction on the basis of the statement may arise is that the requirements for full renewability set out in Article 2.3 go beyond the requirements applied by VertiCer to issue guarantees of origin for renewable hydrogen.

While the hydrogen produced may have guarantees of origin for renewable hydrogen, it may not be considered as fully renewable hydrogen, so that no subsidy is provided for that hydrogen produced.

Any banked overproduction pursuant to Article 6.6 is included. Guarantees of origin for renewable hydrogen shall be issued in MWh; for the purposes of this Scheme, they must be converted into kg.

*Paragraph 2*

If the monthly payments to the subsidy recipient are less than the amount of the adjusted advance, the Minister shall pay the remainder within 6 weeks of the decision to adjust the advance.

*Paragraph 3*

It may also be that an advance payment is greater than the amount of the adjusted advance. The Minister shall then offset the overpayments against future monthly amounts or ultimately recover it.

**Article 6.11 Fully renewable hydrogen production price**

*Paragraph 1*

In short, the production price of fully renewable hydrogen is the price of producing the fully renewable hydrogen, taking into account the amount of investment subsidy provided. The subsidy applicant shall indicate the production price in the subsidy application and the Minister shall include this price in the decision granting the subsidy.

*Paragraph 2*

Paragraph 2 gives the formula for calculating the production price of fully renewable hydrogen. The words ‘at a maximum’ included in the paragraph indicate that the subsidy applicant has discretion to make a strategic choice as to the production price applied for.

A high production price in favour of the subsidy recipient at the operating subsidy amount: the higher the production price, the higher the operating subsidy amount.

A low production price has an advantage in ranking: the lower the ranking amount, the more likely the subsidy is provided. A higher production price leads to a higher ranking. The production price may not be too high in relation to the ground for refusal referred to in Article 3.11(1)(o) and (2). The amount of subsidy requested may not exceed EUR 9/kg for the production of fully renewable hydrogen, and the production price shall be included in its calculation.

**Article 6.12 Final correction amount**

*Paragraphs 1 and 2*

Before 1 April each year, the Minister shall, by means of a ministerial decision, fix a final correction amount applicable to the previous calendar year which consists of the sum of the average costs of producing ‘grey’ hydrogen with SMR over the previous calendar year, the value of guarantees of origin for renewable hydrogen and, if the subsidy recipient has an ETS company, the revenues and avoided costs resulting from the system of tradable greenhouse gas emission allowances referred to in Title 16.2 of the Environmental Management Act. For these costs and avoided costs, a generic adjustment is made for the ETS companies. Thus, the

exact revenues and avoided costs from ETS are not considered for each ETS company.

For a subsidy recipient that does not have an ETS company, there is no ETS revenue and avoided costs, and the final correction amount shall consist of the sum of the average costs of producing ‘grey’ hydrogen with SMR over the previous calendar year and the value of the renewable hydrogen guarantees of origin. It is therefore necessary to determine, per year, whether or not the subsidy recipient has an ETS company in order to determine the final correction amount applicable to that beneficiary: with or without revenues and avoided costs from ETS.

Guarantees of origin for renewable hydrogen shall be declared in MWh. These shall be converted by the conversion factor included from MWh to kg.

Given that only subsidy recipients with an ETS company derive revenues and avoided costs from the system of tradable greenhouse gas emission allowances (as a generic amount), the correction for the average costs of producing ‘grey’ hydrogen with SMR over the previous calendar year, which is the correction for the value of the renewable hydrogen guarantees of origin and the correction for revenues and avoided costs stemming from the tradable greenhouse gas emission allowance system only for subsidy recipients, is made visible in the Ministerial Decision.

*Paragraph 3*

If the final correction amount is lower than the lower limit of the correction amount per kg of hydrogen laid down in the opening decision, the corresponding lower limit of the correction amount shall be corrected. The amount of EUR 1.7997 per kg of hydrogen is the lower limit for correcting the production price for the application period in 2024 pursuant to Article 4 of the Decree on the opening of subsidies for large-scale production scaling up fully renewable hydrogen via electrolysis 2024. The purpose of the correction amount is to reduce the financial risk to the government and to distribute the subsidy ceiling as widely as possible. For further explanation, see paragraph 2.6 of the general part of the explanatory memorandum.

**Article 6.13 Provisional correction amount**

*Paragraphs 1, 2 and 3*

Before 1 November each year, the Minister shall, by means of a ministerial decree, determine the provisional amount of the correction for the following calendar year, which, like the final correction amount, consists of the sum of the average costs of producing ‘grey’ hydrogen with SMR over the previous calendar year, the value of guarantees of origin for renewable hydrogen and, if the subsidy recipient has an ETS company, the revenues and avoided costs resulting from the system of tradable greenhouse gas emission allowances referred to in Title 16.2 of the Environmental Management Act, but that differs as regards the period used to determine the average costs: the period from 1 September to 31 August of the previous calendar year (paragraph 2(a)). Here too, the minimum threshold of EUR 1.7997 per kg of hydrogen laid down in Article 4 of the opening decision applies: if the provisional correction amount is less than EUR 1.7997 per kg of hydrogen, that amount shall be corrected. For further explanations, see the explanatory note to Article 6.12.

*Paragraph 4*

The provisional correction amount is fixed annually by 1 November for the following calendar year (from 1 January to 31 December). Under paragraph 4, a provisional correction amount is fixed for the current calendar year (this determination is included in the opening decision: see Article 2.1).

**Article 6.14 (renewable-power purchase agreements)**

For networked hydrogen production facilities and double-connected hydrogen production facilities, renewable power purchase agreements for wind or solar energy shall be required for the first 5 years. Otherwise, the subsidy recipient will not receive an advance.

**Article 6.15 Renewable hydrogen guarantee of origin account**

The Minister will not grant advance payments until there is an account for guarantees of origin for renewable hydrogen.

**Article 7.1 Subsidy calculation application**

*Paragraph 1*

Paragraph 1 provides that an application for the determination of the subsidy must be submitted within 6 months of the date of expiry of the period covered by the operating subsidy. This provision is necessary in order to arrive at a timely and proper determination of the subsidy, including the determination of the final amount of the subsidy. If the subsidy recipient is late in submitting the application to establish the subsidy, the Minister may, on the basis of Article 4:44 of the General Administrative Law Act, set a new deadline for submitting the application.

*Paragraph 2*

A tool has been made available on RVO's website (www.rvo.nl) by means of which the subsidy recipient must apply for the determination of the subsidy.

**Article 7.2 Determination of the subsidy**

*Paragraphs 1 and 2*

Paragraph 1 sets out the period of 13 weeks within which the Minister takes a decision fixing the subsidy. If the Minister is not in a position to take the determination decision within that period because the application for determination of the subsidy has not been submitted, they shall automatically determine the subsidy after the expiry of that period.

*Paragraph 3*

Since the subsidy can only be established once the final correction amount has been established (which is necessary for determining the amount of the operating subsidy), paragraph 3 contains a provision in the event that the final correction amount has not yet been established.

**Article 8.1 Entry into force and expiry date**

*Paragraph 1*

This paragraph sets out the date of entry into force.

*Paragraph 2*

The sunset clause in paragraph 2 applies Article 4.10(2) of the Compatibility Act. The period covered by the operating subsidy part shall be five to ten years. That period is longer than the duration of the Scheme. Paragraph 2 provides that the expiry of the Scheme shall not affect the application of provisions of this Scheme, which apply to a subsidy already granted at the time of expiry of the Scheme.

The Minister for Climate and Green Growth,