

17.06.2022

Feedback of the Power to X Alliance on the European Commission's draft of the delegated regulation supplementing Directive (EU) 2018/2001 by establishing a Union methodology setting out detailed rules for the production of RFNBOs

The European Commission has published a draft delegated act to set out requirements for electricity used to produce renewable fuels of non-biological origin (RFNBOs) to be counted as fully renewable. RFNBOs, produced sustainably from renewable electricity provide viable paths for climate protection in all energy sectors and are an essential building block of an efficient energy system. The Power to X Alliance is a cross-sector partnership of companies and associations that represents the power to X industry by combining the expertise of energy producers, infrastructure and various energy consumption sectors. We are committed to developing an RFNBO value chain and to bringing these products into application in the industry, the transport sector, the heating sector and beyond.

We, therefore, welcome the European Commission's initiative to set out transparent and credible rules to determine under which circumstances renewable electricity can qualify for the production of RFNBO. To enable the timely production of renewable hydrogen and other RFNBOs in high quantities and at an affordable cost, the option to source renewable electricity from the grid will be of great importance. Therefore, a pragmatic solution that allows for flexibility and predictability, especially in the first years of application is urgently needed.

In our view, the draft delegated act presents a step in the right direction but contains inconsistencies that threaten to slow down the ramp-up of renewable hydrogen and other RFNBOs, thereby jeopardizing the attainment of the EU's proposed REPowerEU target of 10 million tons of domestic renewable hydrogen production by 2030. In detail, we would like to point out the following issues:

Definitions (Art. 2)

In the draft delegated act, renewable electricity is defined to exclude storage units. This could increase the cost of green hydrogen production unnecessarily. Including green power i.e., from pump storage would result in overall lower costs to avoid greenhouse gas emissions.

The delegated act defines 'renewable hydrogen' as hydrogen derived only from renewable energy sources other than biomass. The Power to X Alliance actively supports hydrogen derived from electrolysis but notes that other climate-friendly forms of renewable hydrogen – including from sustainable Biomass – exist. Therefore, a conclusive definition of renewable hydrogen cannot be introduced in the delegated act, which excludes a priori the

use of biogenic sources. Therefore, Art. 2 (4) should be deleted and the words “renewable hydrogen” in subsequent articles should be replaced with “renewable liquid and gaseous transport fuel of non-biological origin”.

Furthermore, the definitions of “installations generating renewable electricity” as well as “installation producing renewable liquid and gaseous transport fuel of non-biological origin” should be clarified and clear system boundaries should be established to disclose which components of the installation are included. It should also be ensured that intermediate products such as synthetic crude or methanol are included in the definition of RFNBOs.

Sourcing electricity from directly connected installations (Art. 3)

We welcome the option to source electricity from installations, that are directly connected to the electrolyzer and the possibility to upgrade the facility with additional renewable energy production. With regard to the expansion of directly connected installations, the addition has to take place no later than 24 months after the initial installation came into operation. Installations connected to the grid in turn enjoy a period of 36 months for expansion. To allow for possible delays in the permitting process and to have a consistent regulation, this period should be at least 36 months both for directly connected plants as well as for plants contracted from the grid.

Sourcing electricity from the grid (Art 4)

In our view, the possibility to use renewable electricity from the grid will be the most important factor for the speed at which high amounts of RFNBO can be produced in the next years. Therefore, it is critical that the production of renewable hydrogen goes hand in hand with a parallel increase of renewable power generation. However, the Commission proposes to adhere to very strict criteria for electricity from the grid in terms of its renewable origin, additionality, geographical and temporal correlation which would make the operation of the plants significantly more cumbersome and expensive.

The Power to X Alliance welcomes a regulation that can credibly and reliably ensure that renewable hydrogen and other RFNBOs are produced from renewable electricity. Here, a pragmatic approach that ensures a level playing field between technologies and enables commercially driven business models is critical.

Therefore, we encourage a solution such as the one proposed by the Commission in Art. 4 (1), which qualifies grid electricity as fully renewable, if the installation producing RFNBO is located in a bidding zone where the average proportion of renewable electricity exceeded a certain threshold in the previous calendar year. The proposed cut-off threshold of 90 percent, however, should be set at 70 percent to create a level playing field between member states.

In addition, the use of existing installations is still very limited under Art. 4 (2) (a) and (b). In order to guarantee a level playing field among member states, it needs to be made sure that

contracted renewable installations in member states where the supported electricity can only be marketed as PPAs to a limited extent are not disadvantaged in the transitional phase and subsequently under the grandfathering clause.

With regards to the location of electrolyzers, the draft delegated act allows member states in Art. 4 (5) to introduce additional criteria apart from the ones in Art. 4 (2) (d). As Power to X Alliance, we are concerned that this will increase the fragmentation of the market and could create an uneven playing field. Therefore, we propose to delete Art. 4 (5).

Transitional Phase (Art. 7)

The Power to X Alliance welcomes the fact, that the Commission proposes a transitional phase until the beginning of 2027 before which the provisions on additionality in Art. 4 (2) (a) & (b) do not apply and before which temporal correlation in Art. 4 (c) i & ii can be demonstrated on a monthly instead of an hourly basis. The Power to X Alliance welcomes this step but remarks that in the light of the time passed since the adoption of RED II and the plan to front-load RFNBO production, the transitional phase should not end before 2027.

In addition, the derogation on temporal correlation does not apply to projects that have received any kind of state aid, other than on capital expenditure. Given the varying form and character of state aids and their necessity in the first years of development, this limitation would make it impossible to rely on the derogation for a large number of renewable hydrogen projects and could lead to uneven conditions and obstruct measures to ramp up the production of green hydrogen.

Grandfathering clause (Art. 8)

The draft delegated act protects early movers with installations that use electricity from the grid from changing regulatory conditions by guaranteeing projects completed before 2027 a permanent exemption from the criterion of additionality in Art. 4 (2) (a) & (b).

However, installations with direct use of electricity (as defined in Article 3) are not included and therefore discriminated against without due justification. Art. 8 must also grant legitimate expectations to the installations designated in Article 3 (b) and should read as follows:

„Article 3, point (b), and Article 4(2), points (a) and (b) do not apply to installations producing renewable liquid and gaseous transport fuel of non-biological origin that come into operation before 1. January 2027. Any additional production capacity added to these installations following their entry into operation will fall under the scope of application of this Regulation.“

The Power to X Alliance points out that a more rapid development of generation would be possible with longer transitional phases and a wider application of the grandfathering clause including e.g., temporal correlation on a monthly basis.

Additional feedback of the Power to X Alliance on the European Commission's draft of the delegated regulation supplementing Directive (EU) 2018/2001 by establishing a minimum threshold for GHG emissions savings of RCFs and by specifying a methodology for assessing GHG emissions savings from RFNBOs and from RCFs

The European Commission has also published a draft delegated act to establish a methodology to assess greenhouse gas (GHG) emission savings from RFNBOs and recycled carbon fuels (RCFs). The Power to X Alliance welcomes the largely technology-open design of the delegated act but sees a need for adjustment regarding the following points:

The use of green hydrogen can make an essential contribution to climate protection in refineries. To this end, the delegated act should clarify how to deal with GHG reductions resulting from the replacement of grey hydrogen with green hydrogen in refineries for hydro treatment of conventional fuels. The regulation should also clarify how the share of renewable energy in green hydrogen counts towards the target in Article 25 RED II.

Number 11 of the Annex to the delegated act allows captured CO₂ to be incorporated into the fuel before 2036. The delegated act should allow carbon capture at unavoidable industrial sources also after 2036.

Number 15(f) of the Annex defines that where a process yields multiple co-products, the ratio of the products is fixed and some co-products are materials not used for fuels, the allocation of GHG emissions shall be done by the economic value of the co-products. However, an allocation by economic value would create unnecessary difficulties and additional administrative burden as not all product prices are easily available. Therefore, an allocation by energy content would be more reliable and easier to administer.

We would be most grateful if you would take our concerns into account and will be glad to assist you with any questions you might have on our recommendation.