HYDROGEN DECREE PUBLISHED RULES AND IMPLEMENTATION AGENDA

ABIHV
Associação Brasileira da Indústria do Hidrogênio Verde

Decree No. 13,096 of 12 August 2026 | Official Gazette: 13 August 2026

KEY MESSAGE

The decree sets out the implementation of the legal framework and the conditions for accessing incentives. Qualification is project-specific. Investment certainty still depends on further implementing rules, particularly on co-qualification for activities linked to derivatives, local content and the tax transition.

REGULATION AND CERTIFICATION

GOVERNANCE

The Ministry of Mines and Energy (MME) coordinates the National Hydrogen Programme Steering Committee, which supports the National Energy Policy Council and sets guidelines for Rehidro and PHBC.

AUTHORISATIONS AND EXEMPTIONS

ANP authorises the production of hydrogen, its derivatives and carriers. Exemptions apply to research and innovation, production for own use, use as an industrial input and non-energy uses, subject to mandatory registration and regulatory conditions. Facilities already operating on publication have two years from that date to apply for authorisation, subject to the exemptions.

CERTIFICATION AND TRACEABILITY

Under Brazil's certification system, ANP regulates, Inmetro accredits certification bodies and CCEE manages registries. The general system boundary extends to the consumption gate; until 31 December 2030, it may end at the production gate. The initial low-emission threshold is **≤ 7 kg CO_2e/kg H_2**, maintained through 2030.

Green hydrogen is produced by water electrolysis using renewable energy. The decree also covers other production pathways.

REHIDRO | ACCESS AND REQUIREMENTS

Rehidro suspends PIS/Cofins and the equivalent import contributions on eligible goods, services and rentals for fixed assets, under contracts entered into by 31 December 2026. It covers the production of hydrogen and derivatives and, through co-qualification, specific hydrogen supply chain activities. Conversion to a zero rate depends on compliance with Article 31.

1 ANP
Technical assessment

2 MME
Preliminary qualification

3 FEDERAL REVENUE SERVICE
Final qualification

Qualification and co-qualification are project-specific. Qualified companies may produce hydrogen and derivatives. Co-qualified companies may provide hydrogen logistics, generate renewable power or produce biofuels for hydrogen production. Power and biofuel contracts must cover at least ten years of supply. The decree does not expressly mention derivatives under co-qualification.

MINIMUM LOCAL CONTENT | PRELIMINARY QUALIFICATION REQUIREMENT

15%
ELECTROLYSIS
Hydrogen production systems and their electrolysers.

40%
OTHER PATHWAYS
Hydrogen production systems using other pathways.

60%
TRANSPORT AND SERVICES
Distribution and transport materials and equipment; services not covered by Article 37(I)(a).

Compliance: subject to ANP rules. Waivers require evidence of no domestic equivalent or insufficient domestic supply and an MDIC act. Guidance is still needed on the 60% requirement for third-party or shared systems, including industrial condominium arrangements.

Minimum of 1% for RD&I
Of total investment, required for preliminary qualification. The decree allows partnerships with science, technology and innovation institutions (ICTs), practical applications, research infrastructure and training, subject to ANP procedures.

Minimum of 1% for the energy transition
Of total investment, for sustainable development projects in Brazil. Required of qualified and co-qualified companies within the same five-year period.

Rehidro: Special Incentive Regime for the Production of Low-Carbon Hydrogen. RD&I: research, development and innovation.

PHBC AND KEY IMPLEMENTATION ISSUES

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PHBC | TAX CREDITS AND CONDITIONS

BRL 18.3 bn

CAPS FOR 2030 TO 2034



Low-Carbon Hydrogen Development Programme. Statutory caps are subject to fiscal targets, budget appropriations and competitive selection.

The Ministry of Finance will conduct the selection process, with a public consultation before the call for proposals is issued. Producers and consumers may participate, subject to programme requirements. The decree favours industrial self-consumption and prioritises fertilisers, steel, cement, chemicals, petrochemicals and heavy-duty transport. Access requires a link to Rehidro and certification; production or consumption must occur within the statutory 2030-2034 period.

up to 100%

Of the estimated price difference compared with substitute goods; the credit is determined through the selection process.

up to 10%

Of the tax credit awarded, to be provided as security after the award, in addition to bid security.

up to 20%

For non-compliance fines, subject to the conditions and calculation bases in Articles 58 and 60 and applicable legal exceptions.

REHIDRO AND THE TAX TRANSITION

Article 30 limits PIS/Cofins suspension to transactions contracted between qualification and **31 December 2026**. Article 106(7) of Complementary Law No. 214/2025 extends REIDI benefits to Rehidro beneficiaries for IBS and CBS from 2027. Implementing rules for the transition remain pending, for both new and existing qualifications. An express position from the Federal Executive would help clarify the issue; the discussion does not amount to a categorical conclusion that the arrangements are unlawful.

IMPLEMENTATION ISSUES UNDER DISCUSSION

CO-QUALIFICATION AND DERIVATIVES

Article 34(I) includes the production of hydrogen and derivatives for qualified companies. Article 34(II) provides for co-qualification for hydrogen logistics, renewable generation and biofuels, without mentioning derivatives. The scope of co-qualification for projects involving derivatives remains to be clarified.

CERTIFICATION AND LIFE CYCLE

Article 22 extends the general boundary to the consumption gate; until 31 December 2030, it may end at the production gate. One reading is that producers are not automatically responsible for third-party data or emissions. The associated recommendations are to separate downstream emissions, assign obligations individually and protect Rehidro benefits from changes beyond beneficiaries' control.

PHBC: CRITERIA AND QUALIFICATION

The law allows priority for lower emissions, but this criterion is optional. The lowest tax credit requested per unit of product is a mandatory selection criterion. The link between prior project qualification under the law and qualification following submission of proposals under Article 55 also needs clarification, distinguishing the project from the applicant.

LOCAL CONTENT, RD&I AND ICTs

The 15%, 40% and 60% thresholds are preliminary qualification requirements. "Production system" is not clearly defined; a broader reading, including water and electricity, is under discussion. Article 37(I)(c) and third-party or shared systems require guidance. The 1% RD&I commitment allows ICT partnerships, but eligible expenditure criteria depend on ANP rules.

COMPLEMENTARY LAW 224/2025 AND REHIDRO

One interpretation is that the across-the-board reduction under Complementary Law No. 224/2025 applies to taxes and benefits covered by the 2026 Tax Expenditure Statement (DGT) or the statutory list, but not to Rehidro. REIDI's inclusion alone would not be sufficient. This legal interpretation remains subject to official confirmation.

WATER AND ELECTRICITY IN ELECTROLYSIS

Classification as raw materials depends on an act by the Federal Revenue Service under Article 62. A regulatory interpretation under discussion is that water and electricity should be recognised as raw materials for electrolysis, within the statutory definitions.

The priority is to make the incentives operational and the rules predictable. Demand, competitively priced energy, transmission and contracts remain decisive for investment decisions.

Sources: Decree No. 13,096/2026; Laws No. 14,948/2024 and No. 14,990/2024 (as amended by Law No. 15,269/2025); Complementary Laws No. 214/2025 (as amended by No. 227/2026) and No. 224/2025.