



## States' Biofuels Statutes

### STATE OF MISSISSIPPI

*This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#).*

*Current through the 2013 Legislative Session of the Mississippi General Assembly.*

#### **§ 69-51-5. Payments to producers; dates for filing claims**

(1) The Commissioner of Agriculture and Commerce is authorized to make cash payments to producers of ethanol, anhydrous alcohol, bio-diesel and wet alcohol located in the state. These payments shall apply only to ethanol, bio-diesel, anhydrous alcohol and wet alcohol fermented and produced at plants in the state. For purposes of this section, an entity that holds a controlling interest in more than one (1) ethanol or bio-diesel plant is considered a single producer. The amount of the payment for each producer's annual production is:

(a) Except as provided in subsection (2) of this section, for each gallon of ethanol, bio-diesel or anhydrous alcohol produced in Mississippi in accordance with subsection (13) of this section on or before June 30, 2005, or for ten (10) years after the start of production, whichever is later, Twenty Cents (20¢) per gallon; and

(b) For each gallon of wet alcohol produced in Mississippi in accordance with subsection (13) of this section on or before June 30, 2005, or for ten (10) years after the start of production, whichever is later, a payment in cents per gallon calculated by the formula "alcohol purity in percent divided by five (5)," and rounded to the nearest cent per gallon, but not less than Eleven Cents (11¢) per gallon.

The producer payments for anhydrous alcohol, bio-diesel and wet alcohol under this section may be paid to the original producer.

No payments shall be made for production that occurs after June 30, 2015.

(2) If the level of production at an ethanol or bio-diesel plant increases due to an increase in the production capacity of the plant, the payment under subsection (1)(a) of this section applies to the additional increment of production until ten (10) years after the increased production began. Once a plant's production capacity reaches thirty million (30,000,000) gallons per year, no additional increment shall qualify for the payment.

(3) The commissioner is authorized to make payments to producers of ethanol, bio-diesel or wet alcohol in the amount of One and One-half Cents (1- ½ ¢) for each kilowatt hour of electricity generated using biomass in a cogeneration facility at an ethanol plant located in the state. Payments under this subsection shall be made only for electricity generated at cogeneration facilities that begin operation by June 30, 2005. The payments apply to electricity generated on or before the date ten (10) years after the producer first qualifies for payment under this subsection. Total payments under this subsection in any fiscal year may not exceed Seven Hundred Fifty Thousand Dollars (\$750,000.00). For the purposes of this subsection:

“Cogeneration” means the combined generation of:

(a) Electrical or mechanical power; and

(b) Steam or forms of useful energy, such as heat, that are used for industrial, commercial, heating or cooling purposes.

(4) Payments under subsections (1) and (2) of this section to all producers may not exceed Thirty-seven Million Dollars (\$37,000,000.00) in a fiscal year. Total payments under subsections (1) and (2) of this section to a producer in a fiscal year may not exceed Six Million Dollars (\$6,000,000.00).

(5) By the last day of October, January, April and July, each producer shall file a claim for payment for ethanol, bio-diesel, anhydrous alcohol and wet alcohol production during the preceding three (3) calendar months. A producer with more than one (1) plant shall file a separate claim for each plant. A producer that files a claim under this subsection shall include a statement of the producer’s total ethanol, bio-diesel, anhydrous alcohol and wet alcohol production in Mississippi during the quarter covered by the claim, including anhydrous alcohol and wet alcohol produced or received from an outside source. A producer shall file a separate claim for any amount claimed under subsection (3) of this section. For each claim and statement of total ethanol, bio-diesel, anhydrous alcohol and wet alcohol production filed under this section, the volume of ethanol, bio-diesel, anhydrous alcohol and wet alcohol production or amounts of electricity generated using biomass must be examined by an independent certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants.

(6) Payments shall be made November 15, February 15, May 15 and August 15. A separate payment shall be made for each claim filed. Except as provided in subsection (9) of this section, the total quarterly payment to a producer under this subsection, excluding amounts paid under subsection (3) of this section, may not exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00).

(7) If the total amount for which all producers are eligible in a quarter under subsection (3) of this section exceeds the amount available for payments, the commissioner shall make payments pro rata.

(8) After July 1, 2002, new production capacity is eligible for payment under this section only if the commissioner received:

(a) An application for approval of the new production capacity;

(b) An appropriate letter of long-term financial commitment for construction of the new production capacity; and

(c) Copies of all necessary permit applications for construction of the new production capacity. The commissioner may approve new production capacity based on the order in which the applications are received.

(9) Notwithstanding the quarterly payment limits of subsections (4) and (6), the commissioner shall make an additional payment in the eighth quarter of each fiscal biennium to ethanol or bio-diesel producers for Twenty Cents (20¢) per gallon of production in the eighth quarter of the biennium that is greater than seven million five hundred thousand (7,500,000) gallons.

(10) The commissioner shall adopt rules to implement this chapter and objective criteria by rule for who is eligible or not eligible for payment in compliance with this chapter.

(11) A plant in production or under construction by June 30, 2005, shall continue to receive uninterrupted payments under this section of at least Twenty Cents (20¢) per gallon of ethanol or bio-diesel produced until July 1, 2015.

(12) Promotional or educational efforts related to ethanol that are financed wholly or partially with state funds and that promote or identify a particular crop or commodity used to produce ethanol must also include a description of the other potential sources of ethanol listed in Section 69-51-3.

(13) It is the intent of this legislation that corn, biomass and resource commodities shall be furnished totally by Mississippi farmers insofar as the supply is available.

**Credits:** Laws 2002, Ch. 603, § 3, eff. June 30, 2002; Laws 2003, Ch. 528, § 1, eff. July 1, 2003; Laws 2005, Ch. 364, § 1, eff. July 1, 2005.