



Biofuels Statutory Citations

STATE OF SOUTH CAROLINA

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 South Carolina General Assembly.

§ 12-6-3600. Credit for ethanol and biodiesel facilities.

(A)(1) For taxable years beginning after 2006, and before 2017, there is allowed a credit against the tax imposed pursuant to this chapter for any corn-based ethanol or soy-based biodiesel facility which is in production at the rate of at least twenty-five percent of its name plate design capacity for the production of corn-based ethanol or soy-based biodiesel, before denaturing, on or before December 31, 2011. The credit equals twenty cents a gallon of corn-based ethanol or soy-based biodiesel produced and is allowed for sixty months beginning with the first month for which the facility is eligible to receive the credit and ending not later than December 31, 2016. The taxpayer is eligible to claim the credit after the facility has six consecutive months of operation at an average production rate of at least twenty-five percent of its name plate design capacity. In the first taxable year in which the taxpayer is eligible to claim the credit, the taxpayer may claim the credit for the first six months it met the requirements in addition to qualifying production during its current taxable year.

(2) For taxable years beginning after 2006, and before 2017, there is allowed a credit against the tax imposed pursuant to this chapter for an ethanol facility using a feedstock other than corn or a biodiesel facility using a feedstock other than soy oil which is in production at the rate of at least twenty-five percent of its name plate design capacity for the production of ethanol or biodiesel, before denaturing, on or before December 31, 2011. The credit equals thirty cents a gallon of noncorn ethanol or nonsoy oil biodiesel produced and is allowed for up to sixty months beginning with the first month for which the facility is eligible to receive the credit and ending no later than December 31, 2016. The taxpayer is eligible to claim the credit after the facility has six consecutive months of operation at an average production rate of at least twenty-five percent of its name plate design capacity. In the first taxable year in which the taxpayer is eligible to claim the credit, the taxpayer may claim the credit for the first six months it met the requirements in addition to qualifying production during its current taxable year.

(3) Any unused credit may be carried forward for ten years.

(B) As used in this section:

(1) "Ethanol facility" means a plant or facility primarily engaged in the production of ethanol or ethyl alcohol derived from renewable and sustainable bioproducts used as a substitute for gasoline fuel.

(2) “Biodiesel facility” means a plant or facility primarily engaged in the production of plant- or animal-based fuels used as a substitute for diesel fuel.

(3) “Name plate design capacity” means the original designed capacity of an ethanol or biodiesel facility. Capacity may be specified as bushels of grain ground or gallons of ethanol or biodiesel produced a year.

(C)(1) Beginning January 1, 2017, an ethanol or biodiesel facility must receive a credit against the tax imposed by this chapter in the amount of seven and one-half cents a gallon of ethanol or biodiesel, before denaturing, for new production for a period not to exceed thirty-six consecutive months.

(2) For purposes of this subsection, “new production” means production which results from a new facility, a facility which has not received credits before 2017, or the expansion of the capacity of an existing facility by at least two million gallons first placed into service after 2016, as certified by the design engineer of the facility to the State Energy Office.

(3) For expansion of the capacity of an existing facility, “new production” means annual production in excess of twelve times the monthly average of the highest three months of ethanol or biodiesel production at an ethanol or biodiesel facility during the twenty-four-month period immediately preceding certification of the facility by the design engineer.

(4) Credits are not allowed pursuant to this subsection for expansion of the capacity of an existing facility until production is in excess of twelve times the three-month average amount determined pursuant to this subsection during any twelve-consecutive-month period beginning no sooner than January 1, 2017.

(5) The amount of a credit granted pursuant to this section based on new production must be approved by the State Energy Office based on the ethanol or biodiesel production records as may be necessary to reasonably determine the level of new production.

(D)(1) The credits described in this section are allowed only for ethanol or biodiesel produced at a plant in this State at which all fermentation, distillation, and dehydration takes place. Credit is not allowed for ethanol or biodiesel produced or sold for use in the production of distilled spirits.

(2) Not more than twenty-five million gallons of ethanol or biodiesel produced annually at an ethanol or biodiesel facility is eligible for the credits in subsections (A) and (B) of this section, and the credits only may be claimed by a producer for the periods specified in subsections (A) and (B) of this section.

(3) Not more than ten million gallons of ethanol or biodiesel produced during a twelve-consecutive-month period at an ethanol or biodiesel facility is eligible for the credit described in subsection (C) of this section, and the credit only may be claimed by a producer for the periods specified in subsection (C) of this section.

(4) Not more than one hundred twenty-five million gallons of ethanol or biodiesel produced at an ethanol or biodiesel facility by the end of the sixty-month period set forth in subsection (A) or (B) of this section is eligible for the credit under the subsection. An ethanol or biodiesel facility which receives a credit for ethanol or biodiesel produced under subsection (A) or (B) of this section may not

receive a credit pursuant to subsection (C) of this section until its eligibility to receive a credit under subsection (A) or (B) of this section has been completed.

(E) The State Energy Office shall prescribe an application form and procedures for claiming credits under this section.

(F) For purposes of ascertaining the correctness of the credit allowed pursuant to this section, the State Energy Office or the department may examine or cause to have examined, by any agent or representative designated for that purpose, any books, papers, records, or memoranda bearing upon these matters.

(G) Notwithstanding the credit amount allowed by this section, for Fiscal Year 2008-2009, all claims made pursuant to this section must not exceed eight hundred thousand dollars and must apply proportionately to all eligible claimants.

(H)(1) To obtain the maximum amount of the credit available to a taxpayer, each taxpayer must submit a request for credit to the State Energy Office by January thirty-first for all gallons of qualifying fuel produced in the previous calendar year and the State Energy Office must notify the taxpayer that it qualifies for the credit and the amount of credit allocated to the taxpayer by March first of that year. A taxpayer may claim the maximum credit for its taxable year which contains the December thirty-first of the previous calendar year. The Department of Revenue may require any documentation that it deems necessary to administer the credit.

(2) For the state's fiscal year beginning July 1, 2008, the maximum amount of credit is to be determined based on an eighteen-month period beginning July 1, 2008, through December 31, 2009. Applications are to be made by January 31, 2010, for the previous eighteen-month period commencing July 1, 2008, and ending December 31, 2009. A taxpayer allocated a credit for this eighteen-month period may claim the credit for its tax year which contains December 31, 2009.

(3) To the extent the maximum amount of the credit contained in this section is repealed, the elimination of the maximum amount shall be seen as the last expression of the legislature and to the extent any language in this act conflicts with that repeal, it shall be considered null and void.

Credits HISTORY: 2006 Act No. 386, § 36.A, eff June 14, 2006; 2007 Act No. 83, §§ 14.A and 14.B, eff June 19, 2007; 2008 Act No. 261, § 3.A, eff May 29, 2008.