



## Biofuels Statutory Citations

### STATE OF VIRGINIA

*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 Virginia General Assembly.*

#### **§ 59.1-284.25. Definitions**

As used in this chapter, unless the context requires a different meaning:

“Advanced biofuels” means a fuel derived from any cellulose, hemicellulose, or lignin that is derived from renewable biomass or algae.

“Authority” means the Virginia Economic Development Partnership Authority established in [§ 2.2-2234](#).

“Biodiesel fuel” means a fuel composed of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats, designated B100, and meeting the requirements of ASTM D6751.

“Biofuels” means neat biodiesel fuel, neat green diesel fuel, or neat ethanol fuel that is not blended with a traditional fuel such as gasoline or diesel.

“Capital investment” means an investment in real property, tangible personal property, or both, within the Commonwealth that is capitalized.

“Clean energy manufacturer” means (i) a manufacturer whose primary function is to manufacture or assemble equipment, systems, or products used to produce renewable or nuclear energy, or products used for energy conservation, storage, or grid efficiency purposes, so long as the manufacturer is not a public service corporation as defined in [§ 56-1](#) that recovers its costs pursuant to [§ 56-585.1](#), or (ii) a producer of biofuels.

“Eligible entity” means any clean energy manufacturer meeting the requirements of [subsection A of § 59.1-284.27](#) or any wind energy supplier that directly supports a clean energy manufacturer in the wind energy industry and meets the requirements of [subsection A of § 59.1-284.27](#).

“Ethanol fuels” means fermentation alcohol derived from agricultural products, including potatoes, cereal grains, dry mill corn, whey, and sugar beets; forest products; or other renewable resources, including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable resources, that:

1. Meets all applicable ASTM specifications; and
2. Is denatured as specified in 27 C.F.R. Parts 20 and 21.

“Feedstock” means the agricultural or other renewable resources, whether plant or animal derived, used to produce biofuels.

“Fund” means the Clean Energy Manufacturing Incentive Grant Fund established pursuant to [§ 59.1-284.26](#).

“Green diesel fuel” means a fuel produced from nonfossil renewable resources, including agricultural or silvicultural plants; animal fats; residue and waste generated from the production, processing, and marketing of agricultural products; silvicultural products; and other renewable resources, and meeting applicable ASTM specifications.

“Memorandum of understanding” means a performance agreement entered into by an eligible entity and the Commonwealth setting forth the requirements for capital investment, the creation of new full-time jobs, and the amount and duration of the grant payments.

“New full-time job” means employment (i) of an indefinite duration created as the direct result of capital investment, (ii) for which the average annual wage is at least equal to the prevailing average annual wage in the locality where the clean energy manufacturer is to locate or expand, (iii) for which the standard fringe benefits are paid by the clean energy manufacturer, and (iv) that requires a minimum of either 1,680 hours per year or 35 hours of any employee’s time per week for the entire normal year of such manufacturer’s operations. For the purposes of this definition, a “normal year” consists of a minimum of 48 weeks. Positions that are seasonal or temporary and positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as new full-time jobs under this section. Other positions, including those of indefinite duration, and supplemental employees of affiliates, subsidiaries, joint ventures, contractors, or subcontractors may be considered new full-time jobs if so designated in the memorandum of understanding.

“President” means the President and Chief Executive Officer of the Authority.

“Renewable energy” means the same as that term is defined in [§ 56-576](#).

“Secretary” means the Secretary of Commerce and Trade.

“Wind energy supplier” means a basic sector manufacturer, installer, operator, or other type of provider that directly supports a clean energy manufacturer in the wind energy industry located in the Commonwealth.

Credits Added by [Acts 2011, c. 815](#); [Acts 2011, c. 864](#).

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**§ 59.1-284.26. Clean Energy Manufacturing Incentive Grant Fund**

There is hereby created in the state treasury a special nonreverting fund to be known as the Clean Energy Manufacturing Incentive Grant Fund, hereafter referred to as “the Fund.” The Fund shall be established on the books of the Comptroller. The Fund shall consist of such moneys as may be appropriated to it by the General Assembly. Moneys in the Fund shall be used solely for the purposes of providing grants to certain clean energy manufacturers and wind energy suppliers as specified in § 59.1-284.27. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the President of the Authority.

Credits Added by [Acts 2011, c. 815](#); [Acts 2011, c. 864](#).

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### **§ 59.1-284.27. Clean Energy Manufacturing Incentive Grant Program**

A. A clean energy manufacturer shall be eligible to receive a clean energy manufacturing grant for up to six years if it (i) commences or expands operations in the Commonwealth on or after July 1, 2011; (ii) makes a capital investment in the Commonwealth on or after July 1, 2011, in an amount greater than \$50 million; (iii) creates at least 200 new full-time jobs on or after July 1, 2011; and (iv) enters into a memorandum of understanding setting forth, at a minimum, the requirements for capital investment and the creation of new full-time jobs. Notwithstanding clauses (ii) and (iii), the Governor may reduce the capital investment and new full-time job thresholds if the eligible entity’s manufacturing or assembly facility is located in a locality with an unemployment rate for the latest year prior to the execution of the memorandum of understanding for which such data is available that is at least 1.25 times the final statewide average unemployment rate for that year. A wind energy supplier shall be eligible to receive a clean energy manufacturing grant for up to six years if, on or after July 1, 2011, and in addition to the requirements of clauses (i) and (iv), it makes a capital investment in the Commonwealth in an amount greater than \$10 million and creates at least 30 new full-time jobs.

B. The grants shall be paid from the Fund subject to appropriation, and the aggregate amount of grants awarded and outstanding at any time shall not exceed \$36 million. The Authority shall conduct a return on investment analysis to determine the appropriate amount and duration of grant payments before entering into a memorandum of understanding.

C. Any eligible entity shall provide an annual report to the Authority, in a form approved by and satisfactory to it, detailing clean energy product and supply operations in the Commonwealth. The report shall be submitted no later than April 1 for the previous calendar year and, at the discretion of the Authority or as stated in the memorandum of understanding, failure to meet the filing deadline shall render the applicant ineligible to receive a grant for that year. The postmark cancellation shall govern the date of filing determination unless the Authority has approved an alternative means of filing.

D. The Authority may inspect the clean energy manufacturer’s or wind energy supplier’s records, books, and other applicable documents and evidence to verify whether the requirements for eligibility set forth in this section and the memorandum of understanding have been met.

E. The Authority shall allocate moneys from the Fund in the following order of priority: first to unpaid moneys carried forward from prior years because eligible entities did not receive the full amount of any money to which they were eligible in a prior year and second to other eligible entities. If the

moneys available for grant payments in the Fund are less than the amount of grants to which eligible entities are eligible, the moneys shall be apportioned pro rata among eligible entities, based upon the amount of the grant to which an entity is eligible and the amount of moneys in the Fund available for allocation to such eligible entities.

F. If an entity is allocated less than the full amount of a grant to which it is eligible in any year, it shall not be eligible for the deficiency in that year, but the unpaid portion of the grant to which it was eligible shall be carried forward to the following year, during which it shall be in the first class of priority as provided in subsection E.

G. The Authority shall assist the Secretary with developing guidelines to implement the provisions of this chapter and present such guidelines to the Chairmen of the Senate Finance and House Appropriations Committees. The guidelines may provide for different grant awards based upon the type of clean energy product manufactured, supplied, or assembled or biofuel produced. Actions of the Authority and the Secretary relating to the development of guidelines and the allocation and awarding of grants under this section shall be exempt from the provisions of the Administrative Process Act ([§ 2.2-4000 et seq.](#)) pursuant to subdivision B 4 of [§ 2.2-4002](#).

**Credits** Added by [Acts 2011, c. 815](#); [Acts 2011, c. 864](#).