

## CHAPTER 41A

# AGRICULTURAL RESOURCE LOAN GUARANTY PROGRAM

41A.09 Ethanol development.

### 41A.09 ETHANOL DEVELOPMENT.

*[For text of subds 1 to 2a, see M.S.1996]*

**Subd. 3a. Payments.** (a) The commissioner of agriculture shall make cash payments to producers of ethanol, anhydrous alcohol, and wet alcohol located in the state. These payments shall apply only to ethanol, anhydrous alcohol, and wet alcohol fermented in the state and produced at plants that have begun production by June 30, 2000. For the purpose of this subdivision, an entity that holds a controlling interest in more than one ethanol plant is considered a single producer. The amount of the payment for each producer's annual production is:

(1) except as provided in paragraph (b), for each gallon of ethanol or anhydrous alcohol produced on or before June 30, 2000, or ten years after the start of production, whichever is later, 20 cents per gallon; and

(2) for each gallon produced of wet alcohol on or before June 30, 2000, or ten 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," and rounded to the nearest cent per gallon, but not less than 11 cents per gallon.

The producer payments for anhydrous alcohol and wet alcohol under this section may be paid to either the original producer of anhydrous alcohol or wet alcohol or the secondary processor, at the option of the original producer, but not to both.

(b) If the level of production at an ethanol plant increases due to an increase in the production capacity of the plant and the increased production begins by June 30, 2000, the payment under paragraph (a), clause (1), applies to the additional increment of production until ten years after the increased production began. Once a plant's production capacity reaches 15,000,000 gallons per year, no additional increment will qualify for the payment.

(c) The commissioner shall make payments to producers of ethanol or wet alcohol in the amount of 1.5 cents for each kilowatt hour of electricity generated using closed-loop biomass in a cogeneration facility at an ethanol plant located in the state. Payments under this paragraph shall be made only for electricity generated at cogeneration facilities that begin operation by June 30, 2000. The payments apply to electricity generated on or before the date ten years after the producer first qualifies for payment under this paragraph. Total payments under this paragraph in any fiscal year may not exceed \$750,000. For the purposes of this paragraph:

(1) "closed-loop biomass" means any organic material from a plant that is planted for the purpose of being used to generate electricity or for multiple purposes that include being used to generate electricity; and

(2) "cogeneration" means the combined generation of:

(i) electrical or mechanical power; and

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

(d) The total payments under paragraphs (a) and (b) to all producers may not exceed \$34,000,000 in a fiscal year. Total payments under paragraphs (a) and (b) to a producer in a fiscal year may not exceed \$3,000,000.

(e) By the last day of October, January, April, and July, each producer shall file a claim for payment for ethanol, anhydrous alcohol, and wet alcohol production during the preceding three calendar months. A producer with more than one plant shall file a separate claim for each plant. A producer shall file a separate claim for the original production capacity of each

plant and for each additional increment of production that qualifies under paragraph (b). A producer that files a claim under this subdivision shall include a statement of the producer's total ethanol, anhydrous alcohol, and wet alcohol production in Minnesota 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 paragraph (c). For each claim and statement of total ethanol, anhydrous alcohol, and wet alcohol production filed under this subdivision, the volume of ethanol, anhydrous alcohol, and wet alcohol production or amounts of electricity generated using closed-loop biomass must be examined by an independent certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants.

(f) Payments shall be made November 15, February 15, May 15, and August 15. A separate payment shall be made for each claim filed. The total quarterly payment to a producer under this paragraph, excluding amounts paid under paragraph (c), may not exceed \$750,000. If the total amount for which all producers are eligible in a quarter under paragraphs (a) and (b) exceeds \$8,500,000, the commissioner shall make payments in the order in which the portion of production capacity covered by each claim went into production. If the total amount of ethanol or wet alcohol production reported for a quarter under paragraph (e) equals or exceeds 55,000,000 gallons:

(1) payments under this subdivision do not apply to the amount produced in excess of 55,000,000 gallons;

(2) the commissioner shall make payments to producers in the order in which the portion of production capacity covered by each claim began production; and

(3) only those producers that receive payments for the quarter, or received payments under paragraph (a) or (b) in an earlier quarter, will be eligible for future ethanol or wet alcohol production payments under this subdivision.

(g) If the total amount for which all producers are eligible in a quarter under paragraph (c) exceeds the amount available for payments, the commissioner shall make payments in the order in which the plants covered by the claims began generating electricity using closed-loop biomass.

(h) After July 1, 1997, new production capacity is only eligible for payment under this subdivision if the commissioner receives:

(1) an application for approval of the new production capacity;

(2) an appropriate letter of long-term financial commitment for construction of the new capacity; and

(3) copies of all necessary permits for construction of the new capacity.

The commissioner may approve the additional capacity based on the order in which the applications are received. The commissioner shall not approve production capacity in excess of the limitations in paragraph (f). Existing plants are not eligible for new capacity beyond planned expansions reported to the commissioner by February 1997.

**Subd. 4. Rulemaking authority.** The commissioner shall adopt rules to implement this section.

*[For text of subds 5a to 8, see M.S.1996]*

**History:** 1997 c 7 art 5 s 8; 1997 c 216 s 57