

THE USDA BIOPREFERRED PROGRAM

**PRESENTED TO THE
CENTER FOR INNOVATIVE
FOOD TECHNOLOGY**

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FEDERAL BIOBASED PRODUCTS PREFERRED PROCUREMENT PROGRAM

- Provides that Federal agencies must give purchasing preference to biobased products designated by this program
- Authority for the program included in the Farm Security and Rural Investment Act (FSRIA) of 2002
- Section 9002 provides for both preferred procurement and labeling programs

SECTION 9002 OF FSRIA SETS OUT FEDERAL AGENCY REQUIREMENTS

- The Act defines biobased products as commercial or industrial products that are composed, in whole or in significant part, of biological products or renewable domestic agricultural materials (including plant, animal, and marine materials) or forestry materials

DOMESTIC CONTENT

- Is interpreted to mean content from any country with which the United States has a preferential trade agreement
- Countries that are signatories to NAFTA and CAFTA, for example, will have their qualifying biobased products treated the same as U.S. domestic products
- Label program requires minor statute change

WHY DID CONGRESS CREATE THIS PROGRAM?

- To spur demand growth for new biobased products/jump start a new industry
- To grow domestic demand for agricultural commodities
- To encourage development of processing and manufacturing in rural communities
- To capture environmental benefits
- To enhance the Nation's energy security

WHAT DOES THE PROGRAM REQUIRE?

- All Federal agencies must give preference to biobased products that have been designated by the program, unless:
 - The products are not reasonably available
 - The products fail to meet performance standards for the application intended
 - The products are available only at an unreasonable price

PROGRAM IS INTEGRATED WITH OTHER FEDERAL PREFERENCE PROGRAMS

- RCRA's recycled products program has priority over the biobased procurement program
- Where environmental attributes are available in a biobased product, but not a RCRA product, biobased product may have priority over RCRA
- Energy Star, Environmentally Preferable, and other preference programs are to be implemented by Federal agencies in integrated manner

DESIGNATING ITEMS FOR PREFERRED PROCUREMENT

- Items are generic groupings of products
- Items are designated by rule making
- Once designated, all 'qualifying' products within a designated item are eligible for preferred procurement
- Federal agencies have up to one year to implement procurement preference

WHAT IS A 'QUALIFYING' BIOBASED PRODUCT?

- It is consistent with definition in statute
- Biobased content is known
- Environmental and health effects of product use are available
- Product performance, as tested against industry recognized standards, is known
- Designation is based on providing reliable and relevant information to Federal agency

WHAT DOES THE PROGRAM DO FOR FEDERAL AGENCIES?

- Encourages purchase of more environmentally sustainable products
- Helps agencies identify those products
- Increases the availability and diversity of biobased products
- Helps agencies reduce environmental footprint

WHAT DOES THE PROGRAM DO FOR MANUFACTURERS AND VENDORS?

- Creates a preferred market for biobased products
- Provides large scale demonstration of biobased products performance in use
- Spurs development of new biobased products
- Develops alternatives to fossil energy based products

EXCLUSIONS FROM THE PROGRAM

- The following product groups are excluded from the program by statute:
 - Food and feed
 - Motor vehicle fuels
 - Electricity

AGENCIES' SPECIFICATIONS MUST COMPLY

- Within one year after final guidelines issued, (January 11, 2005) agency specifications require use of biobased products
- Agencies must create procurement program
 - A biobased products preference program
 - An agency promotion program
 - An annual review and monitoring of effectiveness of agency's program
- Within one year after designation, agencies' must give procurement preference to items

REQUIREMENT APPLIES TO:

- Purchase or acquisition of a procurement item where the purchase price exceeds \$10,000, Or,
- Where the quantity of such items purchased in the preceding fiscal year was \$10,000 or more
- Requirement is applied at agency level

TO USE THE PROGRAM A MANUFACTURER CAN:

- Claim coverage under the program for all products for which items (generic groupings of products) have been designated by rule making
- Certify that a product's biobased content is consistent with statutory definition
- Certify biobased content meets minimum requirement, using ASTM standard test
- Certify that a product will perform in the use to which it will be put

BIODEGRADABILITY REQUIRED

- To be designated for preferred procurement, items of single use bioplastic products must meet appropriate ASTM standard for biodegradability
- Some examples are:
 - Cutlery
 - Garbage bags
 - Food containers

FEDERAL AGENCIES MAY ASK FOR PRODUCT INFORMATION

- Federal agencies may ask the manufacturer for the following information:
 - Biobased content information using ASTM test
 - Environmental and health effects of product use using BEES analysis or ASTM standard
 - Product's life cycle cost using same standards
 - Results of product performance testing against industry recognized performance standards

STATUS OF THE PROGRAM

- Final rule to establish program (of ten items each published in *Federal Register*, January 11, 2005
- Final rule to designate the first six items (groupings of products) for preferred procurement published in the *Federal Register*, March 16, 2006
- Rounds 2 and 3 proposed rules published in *Federal Register*, August 17, 2006
- Round 4 proposed rule published in *Federal Register* on October 11, 2006
- Final rules for rounds 2, 3, and 4 in various stages of clearance
- Research being conducted to support Rounds 5, 6, 7, 8 of proposed designation rules

EXAMPLES OF ITEMS PROPOSED FOR DESIGNATION

- Metal working fluids
- Composite panels
- Biodegradable containers
- Hand cleaners and sanitizers
- Hydraulic fluid for mobile uses
- Durable plastic films
- Biobased carpet
- Biodegradable cutlery
- Greases
- De-icers
- Clothing products

BIOBASED PRODUCTS MARKET PLACE

- **170** Items (generic groupings of products) identified so far
- **2,119** companies identified that produce or market **11,758** biobased products
- For the first four rounds of designation, **36** items are designated that include **2,438** individual biobased products

DESIGNATING PRODUCT ITEMS

- Must be done by rule making process
 - Proposed rule
 - Public comment period
 - Final rule
- USDA must consider information on
 - Product availability
 - Economic and technological feasibility of use, including life cycle costs

DESIGNATING PRODUCT ITEMS

- USDA must also provide information to Federal agencies concerning:
 - Relative price
 - Performance
 - Environmental and public health benefits
 - And, where appropriate, recommend a level of biobased content in the procured product

MANUFACTURERS CAN HELP USDA GET PRODUCTS DESIGNATED

- We need information on a number of individual products within an item (generic grouping) in order to designate that grouping by rule making
- Please contact **Steve Devlin at Iowa State University** with product information. His phone is **641-613-3298**
- Search for biopreferred on the USDA website. It is a good source of information on this program

CLEARANCE PROCESS ON RULES IS TIME CONSUMING

Proposed and final rules must be reviewed or approved by:

- Four agencies within USDA
- Defense Logistics Agency
- Environmental Protection Agency
- Office of the Federal Environmental Executive
- Office of Management and Budget

VOLUNTARY LABELING PROGRAM

- Qualifying biobased products may gain use of **U.S.D.A. CERTIFIED BIOBASED PRODUCT** label and logo
- Authority to use label granted for limited number of years with re-authorization
- Proposed rule to establish labeling program in formal clearance in USDA
- We anticipate opening the labeling program to biobased products from mature markets, as well as from new and emerging markets

USDA'S MODEL PROCUREMENT PROGRAM

- Under leadership of Departmental Administration
- In coordination with the Office of Federal Procurement Policy of OMB
- This program will be available to all Federal agencies
- Its purpose is to train agencies, educate, and promote use of biobased products

CONCLUSION

- A final rule establishing the program has been issued on January 11, 2005
- The final rule to designate six items for preferred procurement published on March 16, 2006. In a little over two weeks Federal agencies are required to begin giving procurement preference to products under those six items
- Three additional proposed rules published in *Federal Register*, with final rules being drafted or in clearance
- Proposed rule for a voluntary labeling program is in USDA clearance
- A model procurement program being developed by USDA Departmental Administration

