

PART 3202—VOLUNTARY LABELING PROGRAM FOR BIOBASED PRODUCTS

Sec.

- 3202.1 Purpose and scope.
- 3202.2 Definitions.
- 3202.3 Applicability.
- 3202.4 Criteria for product eligibility to use the certification mark.
- 3202.5 Initial approval process.
- 3202.6 Appeal processes.
- 3202.7 Requirement associated with the certification mark.
- 3202.8 Violations.
- 3202.9 Recordkeeping requirements.
- 3202.10 Oversight and monitoring.

AUTHORITY: 7 U.S.C. 8102.

SOURCE: 76 FR 3806, Jan. 20, 2011. Redesignated at 76 FR 53632, Aug. 29, 2011.

§ 3202.1 Purpose and scope.

The purpose of this part is to set forth the terms and conditions for voluntary use of the “USDA Certified Biobased Product” certification mark. This part establishes the criteria that biobased products must meet in order to be eligible to become certified biobased products to which the “USDA Certified Biobased Product” mark can be affixed, the process manufacturers and vendors must use to obtain and maintain USDA certification, and the recordkeeping requirements for manufacturers and vendors who obtain certification. In addition, this part establishes specifications for the correct and incorrect uses of the certification mark, which apply to manufacturers, vendors, and other entities. Finally, this part establishes actions that constitute voluntary labeling program violations.

§ 3202.2 Definitions.

Applicable minimum biobased content. The biobased content at or above the level set by USDA to qualify for use of the certification mark.

ASTM International (ASTM). American Society for Testing and Materials is a nonprofit organization that provides an international forum for the development and publication of voluntary consensus standards for materials, products, systems, and services.

Biobased content. The amount of biobased carbon in the material or

product expressed as a percent of weight (mass) of the total organic carbon in the material or product. For BioPreferred Products (products that have been identified for Federal preferred procurement), the biobased content shall be defined and determined as specified in the applicable section of subpart B of part 3201. For all other products, the biobased content is to be determined using ASTM Method D6866, Standard Test Methods for Determining the Biobased Content of Solid, Liquid, and Gaseous Samples Using Radiocarbon Analysis.

Biobased product. A product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is:

(1) Composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials; or

(2) An intermediate ingredient or feedstock. For the purposes of this subpart, the term ‘biobased product’ does not include motor vehicle fuels, heating oil, electricity produced from biomass, or any mature market products.

BioPreferred Product. A biobased product that meets or exceeds minimum biobased content levels set by USDA, and that is found within any of the product categories that have been identified, in subpart B of 7 CFR part 3201, whose products within are eligible for Federal preferred procurement/purchasing.

Certification mark. A combination of the certification mark artwork (as defined in this subpart); one of three statements identifying whether the USDA certification applies to the product, the package, or both the product and package; and, where applicable, the letters “FP” to indicate that the product is within a designated product category and eligible for Federal preferred procurement. The certification mark is owned, and its use is managed by, USDA (standard trademark law definition applies).

Certification mark artwork. The distinctive image, as shown in Figures 1–3, that identifies products as USDA Certified.

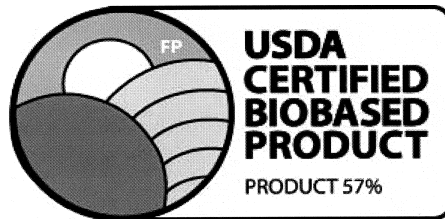


Figure 1. USDA Certified Biobased Product Certification Mark
(Note: actual size will vary depending on application.)

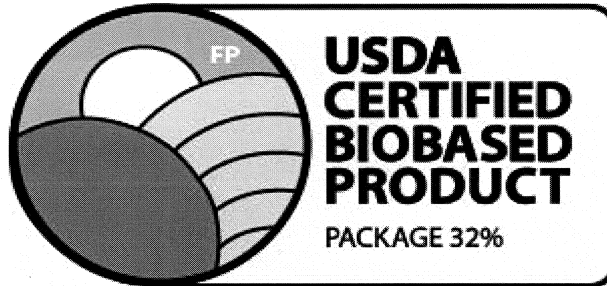


Figure 2. USDA Certified Biobased Product: Package Certification Mark
(Note: actual size will vary depending on application.)

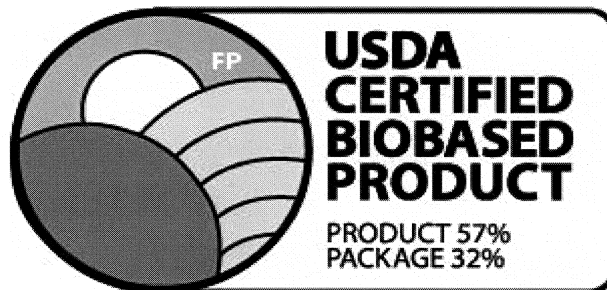


Figure 3. USDA Certified Biobased Product & Package Certification Mark
(Note: actual size will vary depending on application.)

Certified biobased product. A biobased product for which the manufacturer or vendor of the product has received approval from USDA to affix to the product the “USDA Certified Biobased Product” certification mark.

§ 3202.3

Days. As used in this part means calendar days.

Designated item. For the purposes of this part means product categories (generic groupings of products that perform the same function) within which the products have been afforded a procurement preference by Federal agencies under the BioPreferred Program. These BioPreferred Products have been identified for Federal preferred procurement under subpart B of part 3201 of this title.

Designated representative. An entity authorized by a manufacturer or vendor to affix the USDA certification mark to the manufacturer's or vendor's certified biobased product or its packaging.

Intermediate ingredients or feedstocks. Materials or compounds made in whole or in significant part from biological products, including renewable agricultural materials (including plant, animal, and marine materials) or forestry materials, that are subsequently used to make a more complex compound or product. For the purposes of this subpart, intermediate ingredients or feedstocks do not include raw agricultural or forestry materials, but represent those materials that can be put into a new cycle of production and finishing processes to create finished materials, ready for distribution and consumption.

ISO. The International Organization for Standardization, a network of national standards institutes working in partnership with international organizations, governments, industries, business, and consumer representatives.

ISO 9001 conformant. An entity that meets all of the requirements of the ISO 9001 standard, but that is not required to be ISO 9001 certified. ISO 9001 refers to the International Organization for Standardization's standards and guidelines relating to "quality management" systems. "Quality management" is defined as what the manufacturer does to ensure that its products or services satisfy the customer's quality requirements and comply with any regulations applicable to those products or services.

Manufacturer. An entity that performs the necessary chemical and/or

7 CFR Ch. XXXII (1–1–13 Edition)

mechanical processes to make a final marketable product.

Mature market products. Biobased products that are not eligible for Federal preferred procurement or labeling as defined under subpart B of part 3201 of this title because they had significant national market penetration in 1972.

Other entity. Any person, group, public or private organization, or business other than USDA, or manufacturers or vendors of biobased products that may wish to use the "USDA Certified Biobased Product" certification mark in informational or promotional material related to a certified biobased product.

Program Manager. The manager of the BioPreferred Program.

USDA. The United States Department of Agriculture.

Vendor. An entity that offers for sale final marketable biobased products that are produced by manufacturers.

[76 FR 3806, Jan. 20, 2011. Redesignated and amended at 76 FR 53632, Aug. 29, 2011]

§ 3202.3 Applicability.

(a) *Manufacturers, vendors, and designated representatives.* The requirements in this part apply to all manufacturers and vendors, and their designated representatives, who wish to participate in the USDA voluntary labeling program for biobased products. Manufacturers and vendors wishing to participate in the voluntary labeling program are required to obtain and maintain product certification.

(b) *Other entities.* The requirements in this part apply to other entities who wish to use the certification mark in promoting the sales or the public awareness of certified biobased products.

§ 3202.4 Criteria for product eligibility to use the certification mark.

A product must meet each of the criteria specified in paragraphs (a) and (b) of this section in order to be eligible to receive biobased product certification.

(a) *Biobased product.* The product for which certification is sought must be a biobased product as defined in § 3202.2 of this part.

(b) *Minimum biobased content.* The biobased content of the product must