Office of Environmental Quality, USDA § 3100.46

ACHP, the OEQ will review the case and make recommendations to the Secretary regarding the position of the Department. The agency also will consult with the OEQ before reaching a final decision in response to the Council’s comments. Copies of correspondence relevant to compliance with Section 106 shall be made available to OEQ.
## CHAPTER XXXII—OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT, DEPARTMENT OF AGRICULTURE

<table>
<thead>
<tr>
<th>Part</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>3200</td>
<td>Department of Agriculture guidelines for the acquisition and transfer of excess personal property</td>
<td>275</td>
</tr>
<tr>
<td>3201</td>
<td>Guidelines for designating biobased products for Federal procurement</td>
<td>277</td>
</tr>
<tr>
<td>3202</td>
<td>Voluntary labeling program for biobased products</td>
<td>319</td>
</tr>
<tr>
<td>3203</td>
<td>Guidelines for the transfer of excess computers or other technical equipment pursuant to section 14220 of the 2008 Farm Bill</td>
<td>329</td>
</tr>
<tr>
<td>3204–3299</td>
<td>[Reserved]</td>
<td></td>
</tr>
</tbody>
</table>
PART 3200—DEPARTMENT OF AGRICULTURE GUIDELINES FOR THE ACQUISITION AND TRANSFER OF EXCESS PERSONAL PROPERTY

Sec.
3200.1 Purpose.
3200.2 Eligibility.
3200.3 Definitions.
3200.4 Procedures.
3200.5 Dollar limitation.
3200.6 Restrictions.
3200.7 Title.
3200.8 Costs.
3200.9 Accountability and record keeping.
3200.10 Disposal.
3200.11 Liabilities and losses.

SOURCE: 63 FR 57234, Oct. 27, 1998, unless otherwise noted.

§ 3200.1 Purpose.
This Part sets forth the procedures to be utilized by Department of Agriculture (USDA) in the acquisition and transfer of excess property to the 1890 Land Grant Institutions (including Tuskegee University), 1994 Land Grant Institutions, and the Hispanic-Serving Institutions in support of research, educational, technical, and scientific activities or related programs as authorized by 7 U.S.C. 2206a. Title to the personal property shall pass to the institution.

§ 3200.2 Eligibility.
Institutions that are eligible to receive Federal excess personal property pursuant to the provisions of this part are the 1890 Land Grant Institutions (including Tuskegee University), 1994 Land Grant Institutions, and the Hispanic-Serving Institutions conducting research, educational, technical, and scientific activities or related programs.

§ 3200.3 Definitions.
(a) 1890 Land grant institutions—any college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et. seq.), including Tuskegee University.
(b) 1994 Land grant institutions—any of the tribal colleges or universities as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note).
(c) Hispanic-serving institutions—institutions of higher education as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c (b)).
(d) Property management officer—is an authorized USDA or institution official responsible for property management.
(e) Screener—is an individual designated by an eligible institution and authorized by the General Services Administration (GSA) to visit property sites for the purpose of inspecting personal property intended for use by the institution.
(f) Excess personal property—is any personal property under the control of a Federal agency that is no longer needed.
(g) Cannibalization—is the dismantling of equipment for parts to repair or enhance other equipment.

§ 3200.4 Procedures.
(a) To receive information concerning the availability of Federal excess personal property, an eligible institution’s property management officer may contact their regional GSA, Area Utilization Officer. For information on USDA excess personal property, visit the USDA Web site at http://www.nfc.usda.gov/propexcs. USDA excess property will first be screened by USDA agencies through the Departmental Excess Personal Property Coordinator (DEPPC) using the Departmental Property Management Information System.
(b) Excess property selected by screeners of eligible institutions should be inspected whenever possible, or the holding agency should be contacted to verify the condition of the items, because interpretation of condition codes varies among Federal agencies.
(c) If the condition of the item is acceptable, the institution should “freeze” (reserve) items by calling the appropriate GSA office or USDA Departmental Excess Personal Property Coordinator (DEPPC). Since GSA may have several “freezes” on a piece of equipment, it is critical that the paperwork be submitted as soon as possible. Further, while transfers of excess personal property normally will be approved by GSA on a first-come-first-serve basis, consideration will be given
§ 3200.5

to such factors as national defense requirements, emergency needs, preclusion of new procurement, energy conservation, equitable distribution, and retention of title in the Government.

(d) Eligible institutions may submit property requests by mail or fax on a Standard Form 122, “Transfer Order Excess Personal Property”.

(e) The SF–122 should be signed by the eligible institution’s property management officer or authorized designee.

(1) The following information should also be provided:

(i) Date prepared.

(ii) GSA/DEPPC address.

(iii) Ordering Agency and address.

(iv) Holding Agency and address.

(v) Name and address of Institution.

(vi) Location of property.

(vii) Shipping instruction (including institution contact person and phone number).

(viii) Complete description of property including original acquisition cost, serial number, condition code, and quantity.

(2) This statement needs to be added following the property description:

"The property requested hereon is certified to be used in support of research, educational, technical, and scientific activities or for related programs. This transfer is requested pursuant to the provisions of Section 923 Pub. L. 104–127 (7 U.S.C. 2206a). Also, in accordance with these provisions USDA authorizes transfer of title of this property to the college/university/institution."

(f) The SF–122 should be forwarded to USDA for approval and signature by an authorized USDA official. As confirmation of approval, the eligible institution’s property management officer will receive a stamped copy of the SF–122. If the request is disapproved, it will be returned to the property management officer of the eligible institution with an appropriate explanation. All USDA approved SF–122’s will be forwarded to DEPPC or the appropriate GSA office for final approval.

(g) Once the excess personal property is physically received, the institution is required to immediately return a copy of the SF–122 to USDA indicating receipt of requested items. Cancellations should also be reported to USDA.

NOTE: USDA shall send an informational copy of all SF–122’s transactions to GSA.


§ 3200.5 Dollar limitation.

There is no dollar limitation on excess personal property obtained under these procedures.

§ 3200.6 Restrictions.

(a) Property in the following Federal Supply Groups are prohibited from transfer.

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</tr>
</thead>
<tbody>
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<tr>
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(b) The property in the FSC’s listed below are discouraged from transfer and not approved on a routine basis. However, Institutions may request items in these FSC groups, but all requests will be referred to the Director, Office of Procurement and Property Management for consideration and approval:

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(c) Excess personal property may be transferred for the purpose of cannibalization, provided the eligible institution submits a supporting statement which clearly indicates that cannibalizing the requested property for secondary use has greater benefit than utilization of the item in its existing form.

(d) Use of the procedures in this part for the purpose of stockpiling of excess personal property for future cannibalization is prohibited. Transfer requests for the purpose of cannibalization will be considered, but are normally subordinate to requests for complete items.

§ 3200.7 Title.
Title to excess personal property obtained under Part 3200 will automatically pass to the 1890 Land Grant Institutions (including Tuskegee University), 1994 Land Grant Institutions, and the Hispanic-Serving Institutions once USDA receives the SF–122 indicating that the institution has received the property. Note: When competing Federal claims are made for particular items of excess personal property held by agencies other than USDA, with or without payment of reimbursement, GSA will give preference to the Federal agency that will retain title in the Government.

§ 3200.8 Costs.
Excess personal property obtained under this part is provided free of charge. However, the institution must pay all costs associated with packaging and transportation. The institution should specify the method of shipment on the SF–122.

§ 3200.9 Accountability and record keeping.
USDA requires that Federal excess personal property received by an eligible institution pursuant to this part shall be placed into use for a research, educational, technical, or scientific activity, or for a related purpose, within 1 year of receipt of the property, and used for such purpose for at least 1 year thereafter. The institution’s property management officer must establish and maintain accountable records identifying the property’s location, description, utilization and value. To ensure that the excess personal property is being used for its intended purpose under this part, compliance reviews will be conducted by an authorized representative of USDA. The review will include site visit inspections of the property and the accountability and record keeping systems.

§ 3200.10 Disposal.
Once the requirements in § 3200.9 are met for retention and use of property by the Institution and title is transferred, Federal excess personal property (FEPP) no longer needed by an Institution will be disposed of in accordance with the Institution’s disposal practices. Regardless of ownership, FEPP must never be disposed of in any manner which is detrimental or dangerous to public health or safety. Also, any costs incurred during the disposal process are the responsibility of the Institution.

[68 FR 75108, Dec. 30, 2003]

§ 3200.11 Liabilities and losses.
USDA assumes no liability with respect to accidents, bodily injury, illness, or any other damages or loss related to excess personal property transferred under this part.

PART 3201—GUIDELINES FOR DESIGNATING BIOBASED PRODUCTS FOR FEDERAL PROCUREMENT

Subpart A—General

Sec.
3201.1 Purpose and scope.
3201.2 Definitions.
3201.3 Applicability to Federal procurements.
3201.4 Procurement programs.
3201.5 Item designation.
3201.6 Providing product information to Federal agencies.
3201.7 Determining biobased content.
3201.8 Determining life cycle costs, environmental and health benefits, and performance.
3201.9 Funding for testing.

Subpart B—Designated Items

3201.10 Mobile equipment hydraulic fluids.
3201.11 Roof coatings.
3201.12 Water tank coatings.
3201.13 Diesel fuel additives.
3201.14 Penetrating lubricants.
3201.15 Bedding, bed linens, and towels.
3201.16 Adhesive and mastic removers.
3201.17 Plastic insulating foam for residential and commercial construction.
3201.18 Hand cleaners and sanitizers.
3201.19 Composite panels.
3201.20 Fluid-filled transformers.
3201.21 Disposable containers.
3201.22 Fertilizers.
3201.23 Sorbents.
3201.24 Graffiti and grease removers.
3201.25 2-Cycle engine oils.
3201.26 Lip care products.
3201.27 Films.
3201.28 Stationary equipment hydraulic fluids.
3201.29 Disposable cutlery.
3201.30 Glass cleaners.
3201.31 Greases.
3201.32 Dust suppressants.
§ 3201.1 Purpose and scope.

(a) Purpose. The purpose of the guidelines in this part is to assist procuring agencies in complying with the requirements of section 9002 of the Farm Security and Rural Investment Act of 2002 (FSRIA), Public Law 107–171, 116 Stat. 476 (7 U.S.C. 8102), as amended by the Food, Conservation, and Energy Act of 2008, Public Law 110–246, 122 Stat. 1651, as they apply to the procurement of the products designated in subpart B of this part.

(b) Scope. The guidelines in this part designate items that are or can be produced with biobased products and whose procurement by procuring agencies will carry out the objectives of section 9002.

[76 FR 6321, Feb. 4, 2011]

§ 3201.2 Definitions.

These definitions apply to this part:

Agricultural materials. Agricultural-based, including plant, animal, and marine materials, raw materials or residues used in the manufacture of commercial or industrial, nonfood/nonfeed products.

ASTM International. ASTM International, a nonprofit organization organized in 1898, is one of the largest voluntary standards development organizations in the world with about 30,000 members in over 100 different countries. ASTM provides a forum for the
development and publication of voluntary consensus standards for materials, products, systems, and services.


**Biobased components.** Any intermediary biobased materials or parts that, in combination with other components, are functional parts of the biobased product.

**Biobased content.** Biobased content shall be determined based on the amount of biobased carbon in the material or product as a percent of weight (mass) of the total organic carbon in the material or product.

**Biobased product.** A product determined by USDA to be a commercial or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials.

**Biodegradability.** A quantitative measure of the extent to which a material is capable of being decomposed by biological agents, especially bacteria.

**Biological products.** Products derived from living materials other than agricultural or forestry materials.

**Designated item.** A generic grouping of biobased products identified in subpart B that is eligible for the procurement preference established under section 9002 of FSRIA.

**Diluent.** A substance used to diminish the strength, scent, or other basic property of a substance.

**Engineered wood products.** Products produced with a combination of wood, food fibers and adhesives.

**EPA-designated recovered content product.** A product, designated under the Resource Conservation and Recovery Act, that is subject to Federal procurement as specified in section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962), whereby Federal agencies must give preferred procurement to those products composed of the highest percentage of recovered materials practicable, subject to availability, cost, and performance.


**Federal agency.** Any executive agency or independent establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, the Architect of the Capitol, and any activities under the Architect’s direction).

**Filler.** A substance added to a product to increase the bulk, weight, viscosity, strength, or other property.

**Forest thinnings.** Refers to woody materials removed from a dense forest, primarily to improve growth, enhance forest health, or recover potential mortality. (To recover potential mortality means to remove trees that are going to die in the near future.)

**Forestry materials.** Materials derived from the practice of planting and caring for forests and the management of growing timber. Such materials must come from short rotation woody crops (less than 10 years old), sustainably managed forests, wood residues, or forest thinnings.

**Formulated product.** A product that is prepared or mixed with other ingredients, according to a specified formula and includes more than one ingredient.


**Functional unit.** A measure of product technical performance that provides a common reference to which all environmental and economic impacts of the product are scaled. This reference is necessary to ensure comparability of performance results across competing products. Comparability of results is critical when competing product alternatives are being assessed to ensure that such comparisons are made on a common basis. For example, the functional unit for competing interior
paint products may be defined as "protecting one square foot of interior wall surface for 50 years."

Ingredient. A component; part of a compound or mixture; may be active or inactive.

ISO. The International Organization for Standardization, a network of national standards institutes from 145 countries working in partnership with international organizations, governments, industries, business, and consumer representatives.

Neat product. A product that is made of only one ingredient and is not diluted or mixed with other substances.

Procuring agency means any Federal agency that is using Federal funds for procurement or any person contracting with any Federal agency with respect to work performed under the contract.

Relative price. The price of a product as compared to the price of other products on the market that have similar performance characteristics.

Residues. That which remains after a part is taken, separated, removed, or designated; a remnant; a remainder; and, for this purpose, is from agricultural materials, biological products, or forestry materials.

Secretary. The Secretary of the United States Department of Agriculture.

Small and emerging private business enterprise. Any private business which will employ 50 or fewer new employees and has less than $1 million in projected annual gross revenues.

Sustainably managed forests. Refers to the practice of a land stewardship ethic that integrates the reforestation, management, growing, nurturing, and harvesting of trees for useful products while conserving soil and improving air and water quality, wildlife, fish habitat, and aesthetics.

§ 3201.3 Applicability to Federal procurements.

(a) Applicability to procurement actions. The guidelines in this part apply to all procurement actions by procuring agencies involving items designated by USDA in this part, where the procuring agency purchases $10,000 or more worth of one of these items during the course of a fiscal year, or where the quantity of such items or of functionally equivalent items purchased during the preceding fiscal year was $10,000 or more. The $10,000 threshold applies to Federal agencies as a whole rather than to agency subgroups such as regional offices or subagencies of a larger Federal department or agency.

(b) Exception for procurements subject to EPA regulations under the Solid Waste Disposal Act. For any procurement by any procuring agency that is subject to regulations of the Administrator of the Environmental Protection Agency under section 6002 of the Solid Waste Disposal Act as amended by the Resource Conservation Act of 1976 (40 CFR part 247), these guidelines do not apply to the extent that the requirements of this part are inconsistent with such regulations.

(c) Procuring products composed of the highest percentage of biobased content. Section 9002(a)(2) requires procuring agencies to procure designated items composed of the highest percentage of biobased content practicable or such products that comply with the regulations issued under section 103 of Public Law 100–556 (42 U.S.C. 6914b–1), consistent with maintaining a satisfactory level of competition, considering these guidelines. Procuring agencies may decide not to procure such products if they are not reasonably priced or readily available or do not meet specified or reasonable performance standards.

(d) This guideline does not apply to purchases of designated items that are unrelated to or incidental to Federal funding; i.e., not the direct result of a contract or agreement with persons supplying items to a procuring agency or providing support services that include the supply or use of items.

(e) Exemptions. The following applications are exempt from the preferred procurement requirements of this part:

1. Military equipment: Products or systems designed or procured for combat or combat-related missions.

2. Spacecraft systems and launch support equipment.

§ 3201.4 Procurement programs.
   (a) Integration into the Federal procurement framework. The Office of Federal Procurement Policy, in cooperation with USDA, has the responsibility to coordinate this policy’s implementation in the Federal procurement regulations. These guidelines are not intended to address full implementation of these requirements into the Federal procurement framework. This will be accomplished through revisions to the Federal Acquisition Regulation.
   (b) Federal agency preferred procurement programs. (1) On or before January 11, 2006, each Federal agency shall develop a procurement program which will assure that items composed of biobased products will be purchased to the maximum extent practicable and which is consistent with applicable provisions of Federal procurement laws. Each procurement program shall contain:
      (i) A preference program for purchasing designated items,
      (ii) A promotion program to promote the preference program; and
      (iii) Provisions for the annual review and monitoring of the effectiveness of the procurement program.
   (2) In developing the preference program, Federal agencies shall adopt one of the following options, or a substantially equivalent alternative, as part of the procurement program:
      (i) A policy of awarding contracts to the vendor offering a designated item composed of the highest percentage of biobased product practicable except when such items:
         (A) Are not available within a reasonable time;
         (B) Fail to meet performance standards for the use to which they will be put, or the reasonable performance standards of the Federal agency; or
         (C) Are available only at an unreasonable price.
      (ii) A policy of setting minimum biobased products content specifications in such a way as to assure that the biobased products content required is consistent with section 9002 and the requirements of the guidelines in this part except when such items:
         (A) Are not available within a reasonable time;
         (B) Fail to meet performance standards for the use to which they will be put, or the reasonable performance standards of the Federal agency; or
         (C) Are available only at an unreasonable price.
   (3) In implementing the preference program, Federal agencies shall treat as eligible for the preference biobased products from “designated countries,” as that term is defined in section 25.003 of the Federal Acquisition Regulation, provided that those products otherwise meet all requirements for participation in the preference program.
   (c) Procurement specifications. After the publication date of each designated item, Federal agencies that have the responsibility for drafting or reviewing specifications for items procured by Federal agencies shall ensure within a specified time frame that their specifications require the use of designated items composed of biobased products, consistent with the guidelines in this part. USDA will specify the allowable time frame in each designation rule. The biobased content of a designated item may vary considerably from product to product based on the mix of ingredients used in its manufacture. In procuring designated items, the percentage of biobased product content should be maximized, consistent with achieving the desired performance for the product.

§ 3201.5 Item designation.
   (a) Procedure. Designated items are listed in subpart B. In designating items, USDA will designate items composed of generic groupings of specific products and will identify the minimum biobased content for each listed item. As items are designated for procurement preference, they will be added to subpart B. Items are generic groupings of specific products. Products are specific products offered for sale by a manufacturer or vendor. Although manufacturers and vendors may submit recommendations to USDA for future item designations at any time, USDA does not have a formal process for such submissions or for responding to such submissions.
§ 3201.6 Providing product information to Federal agencies.

(a) Informational Web site. An informational USDA Web site implementing section 9002 can be found at: http://www.biopreferred.gov. USDA will maintain a voluntary Web-based information site for manufacturers and vendors of designated items produced with biobased products and Federal agencies to exchange product information. This Web site will provide information as to the availability, relative price, biobased content, performance and environmental and public health benefits of the designated items. USDA encourages manufacturers and vendors to provide product, business contacts, and product information for designated items. Instructions for posting information are found on the Web site itself.

USDA also encourages Federal agencies to utilize this Web site to obtain current information on designated items, contact information on manufacturers and vendors, and access to information on product characteristics relevant to procurement decisions. In addition to any information provided on the Web site, manufacturers and vendors are expected to provide relevant information to Federal agencies, upon request, with respect to product characteristics, including verification of such characteristics if requested.

(b) Advertising, labeling and marketing claims. Manufacturers and vendors are reminded that their advertising, labeling, and other marketing claims, including claims regarding health and environmental benefits of the product, must conform to the Federal Trade Commission “Guides for the Use of Environmental Marketing Claims,” 16 CFR part 260 (see: http://www.access.gpo.gov/nara/cfr/waisidx_08/16cfr260_08.html). For further requirements, click on the link to the “Guidelines for Marketing the BioPreferred Program.”

§ 3201.7 Determining biobased content.

(a) Certification requirements. For any product offered for preferred procurement, manufacturers and vendors must certify that the product meets the biobased content requirements for the designated item within which the product falls. Paragraph (c) of this section addresses how to determine biobased content. Upon request, manufacturers and vendors must provide USDA and Federal agencies information to verify biobased content for products certified to qualify for preferred procurement.

(b) Minimum biobased content. Unless specified otherwise in the designation of a particular item, the minimum biobased content requirements in a specific item designation refer to the biobased portion of the product, and not the entire product.

(c) Determining biobased content. Verification of biobased content must be based on third party ASTM/ISO compliant test facility testing using the ASTM International Radioisotope Standard Method D 6866. ASTM International Radioisotope Standard Method D 6866 determines biobased content based on the amount of biobased carbon in the material or product as percent of the weight (mass) of the total organic carbon in the material or product.

(d) Products with the same formulation. In the case of products that are essentially the same formulation, but marketed under a variety of brand names,
Office of Procurement and Property Management, USDA

§ 3201.9 Funding for testing.

(a) USDA use of funds for biobased content and BEES testing. USDA will use funds to support testing for biobased content and conduct of BEES testing for products within items USDA has selected to designate for preferred procurement through early regulatory action. USDA initially will focus on gathering the necessary test information on a sufficient number of products within an item (generic grouping of products) to support regulations to be promulgated to designate an item or items for preferred procurement under this program. USDA may accept cost sharing for such testing to the extent consistent with USDA product testing decisions. During this period USDA will not consider cost sharing in deciding what products to test. When USDA has concluded that a critical mass of items have been designated, USDA will exercise its discretion, in accordance with the competitive procedures outlined in paragraph (b) of this section, to allocate a portion of the available USDA testing funds to give priority to testing of products for which private sector firms provide cost sharing for the testing.

(b) Competitive program for cost sharing for determining life cycle costs, environmental and health benefits, and performance. (1) Subject to the availability of funds and paragraph (a) of this section,
USDA will announce annually the solicitation of proposals for cost sharing for life cycle costs, environmental and health benefits, and performance testing of biobased products in accordance with the standards set forth in §3201.8 to carry out this program. Information regarding the submission of proposals for cost sharing also will be posted on the USDA informational Web site, http://www.biopreferred.gov.

(2) Proposals will be evaluated and assigned a priority rating. Priority ratings will be based on the following criteria:

(i) A maximum of 25 points will be awarded a proposal based on the market readiness;

(ii) A maximum of 20 points will be awarded a proposal based on the potential size of the market for that product in Federal agencies;

(iii) A maximum of 25 points will be awarded based on the financial need for assistance of the manufacturer or vendor;

(iv) A maximum of 20 points will be awarded a proposal based on the product’s prospective competitiveness in the market place;

(v) A maximum of 10 points will be awarded a proposal based on its likely benefit to the environment.

(3) Cost-sharing proposals will be considered first for high priority products of small and emerging private business enterprises. If funds remain to support further testing, USDA will consider cost sharing proposals for products of all other producers of biobased items as well as the remaining proposals for products of small and emerging private business enterprises. Proposals will be selected based on priority rating until available funds for the fiscal year are committed.

(4)(i) For products selected for life cycle costs and environmental and health benefits testing under this paragraph, USDA could provide up to 50 percent of the cost of determining the life cycle costs and environmental and health effects, up to a maximum of $5,000 of assistance per product.

(ii) For products selected for performance testing under this paragraph, USDA could provide up to 50 percent of the cost for performance testing, up to $100,000 of assistance per product for up to two performance tests (measures of performance) per product.

(5) For selected proposals, USDA will enter into agreements with and provide the funds directly to the testing entities.

(6) Proposals submitted in one fiscal year, but not selected for cost sharing of testing in that year, may be resubmitted to be considered for cost sharing in the following year.


Subpart B—Designated Items


§ 3201.10 Mobile equipment hydraulic fluids.

(a) Definition. Hydraulic fluids formulated for general use in non-stationary equipment, such as tractors, loaders, or backhoes.

(b) Minimum biobased content. The minimum biobased content is 44 percent and shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference effective date. No later than March 16, 2007, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased mobile equipment hydraulic fluids. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased mobile equipment hydraulic fluids.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying biobased products that fall under this item may, in some cases, overlap with the following EPA-designated recovered content product: Refined Lubricating Oils. USDA is requesting that manufacturers of these qualifying biobased products provide information for the BioPreferred Web site of qualifying biobased products about the intended uses of the product, information on whether or not the
product contains petroleum-based ingredients, re-refined oil, and/or any other recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated lubricating oils containing re-refined oil and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Mobile equipment hydraulic fluid products within this designated item can compete with similar lubricating oils containing re-refined oil. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated lubricating oils containing re-refined oil as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.11.

[71 FR 13705, Mar. 16, 2006, as amended at 73 FR 27953, May 14, 2008]

§ 3201.11 Roof coatings.

(a) Definition. Coatings formulated for use in commercial roof deck systems to provide a single-coat monolith coating system.

(b) Minimum biobased content. The minimum biobased content is 20 percent and shall be based on the entire product.

(c) Preference effective date. No later than March 16, 2007, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased roof coatings. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased roof coatings.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying biobased products that fall under this item may, in some cases, overlap with the following EPA-designated recovered content product: Roofing Materials. USDA is requesting that manufacturers of these qualifying biobased products provide information for the BioPreferred Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any type of recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with recovered content roofing materials and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Roof coating products within this designated item can compete with similar roofing material products. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated roofing material containing recycled material as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.12.

[71 FR 13705, Mar. 16, 2006, as amended at 73 FR 27953, May 14, 2008]

§ 3201.12 Water tank coatings.

(a) Definition. Coatings formulated for use in potable water storage systems.

(b) Minimum biobased content. The minimum biobased content is 59 percent and shall be based on the entire product.

(c) Preference effective date. No later than November 20, 2007, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased water tank coatings. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased water tank coatings.

[71 FR 13705, Mar. 16, 2006, as amended at 71 FR 67032, Nov. 20, 2006]

§ 3201.13 Diesel fuel additives.

(a) Definition. (1) Any substance, other than one composed solely of carbon and/or hydrogen, that is intentionally added to diesel fuel (including any added to a motor vehicle’s fuel system) and that is not intentionally removed prior to sale or use.

(2) Neat biodiesel, also referred to as B100, when used as an additive. Diesel
§ 3201.14 Penetrating lubricants.

(a) Definition. Products formulated to provide light lubrication and corrosion resistance in close tolerant internal and external applications including frozen nuts and bolts, power tools, gears, valves, chains, and cables.

(b) Minimum biobased content. The minimum biobased content is 68 percent and shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference effective date. No later than March 16, 2007, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased penetrating lubricants. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased penetrating lubricants.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying biobased products that fall under this item may, in some cases, overlap with the following EPA-designated recovered content product: Re-refined Lubricating Oils. USDA is requesting that manufacturers of these qualifying biobased products provide information for the BioPreferred Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains petroleum-based ingredients, re-refined oil, and/or any other recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated lubricating oils containing re-refined oil and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Penetrating lubricant products within this designated item can compete with similar re-refined lubricating oil products. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated re-refined lubricating oils containing recycled material as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.11.

§ 3201.15 Bedding, bed linens, and towels.

(a) Definition. (1) Bedding is that group of woven cloth products used as coverings on a bed. Bedding includes products such as blankets, bedspreads, comforters, and quilts.

(2) Bed linens are woven cloth sheets and pillowcases used in bedding.

(3) Towels are woven cloth products used primarily for drying and wiping.

(b) Minimum biobased content. The minimum biobased content is 12 percent and shall be based on the amount of qualifying biobased carbon in the finished product as a percent of the weight (mass) of the total organic carbon in the finished product. The 12 percent biobased content must be of a qualifying biobased feedstock. Cotton, wool, linen, and silk are not qualifying biobased feedstocks for the purpose of determining the biobased content of bedding, bed linens, and towels.

(c) Preference effective date. No later than November 20, 2007, procuring agencies, in accordance with this part, will give a procurement preference for
qualified biobased bedding, bed linens, and towels. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased bedding, bed linens, and towels.

§ 3201.16 Adhesive and mastic removers.
(a) Definition. Solvent products formulated for use in removing asbestos, carpet, and tile mastics as well as adhesive materials, including glue, tape, and gum, from various surface types.
(b) Minimum biobased content. The preferred procurement product must have a biobased content of at least 58 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.
(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased adhesive and mastic removers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased adhesive and mastic removers.

§ 3201.17 Plastic insulating foam for residential and commercial construction.
(a) Definition. Spray-in-place plastic foam products designed to provide a sealed thermal barrier for residential or commercial construction applications.
(b) Minimum biobased content. The preferred procurement product must have a biobased content of at least 7 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.
(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased plastic insulating foam for residential and commercial construction. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased plastic insulating foam for residential and commercial construction.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying biobased products that fall under this item may, in some cases, overlap with the EPA-designated recovered content product: Building Insulation. USDA is requesting that manufacturers of these qualifying biobased products provide information on the BioPreferred Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated building insulation and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Biobased insulating products within this designated item can compete with similar insulating products with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated building insulation containing recovered materials as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.12. EPA provides recovered materials content recommendations for building insulation products in the Recovered Materials Advisory Notice (RMAN) published for these products. The RMAN recommendations can be found by accessing EPA’s Web site http://www.epa.gov/epaoswer/non-hw/procure/products.htm and then clicking on the appropriate product name.

§ 3201.18 Hand cleaners and sanitizers.
(a) Definitions—(1) Hand cleaners. Products formulated for personal care use in removing a variety of different
§ 3201.19 Composite panels.

(a) Definitions—(1) Plastic lumber composite panels. Engineered products suitable for non-structural outdoor needs such as exterior signs, trash can holders, and dimensional letters.

(2) Acoustical composite panels. Engineered products designed for use as structural and sound deadening material suitable for office partitions and doors.

(3) Interior panels. Engineered products designed specifically for interior applications and providing a surface that is impact-, scratch-, and wear-resistant and that does not absorb or retain moisture.

(4) Structural interior panels. Engineered products designed for use in structural construction applications, including cabinetry, casework, paneling, and decorative panels.

(5) Structural wall panels. Engineered products designed for use in structural walls, curtain walls, floors and flat roofs in commercial buildings.

(6) Countertops. Engineered products designed to serve as horizontal work surfaces in locations such as kitchens, break rooms or other food preparation areas, bathrooms or lavatories, and workrooms.

(b) Minimum biobased content. The minimum biobased content requirement for all composite panels shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. The applicable minimum biobased contents are:

(1) Plastic lumber composite panels—23 percent.
(2) Acoustical composite panels—37 percent.
(3) Interior panels—55 percent.
(4) Structural interior panels—89 percent.
(5) Structural wall panels—94 percent.
(6) Countertops—89 percent.

(c) Preference compliance dates. (1) No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for those qualifying biobased composite panels specified in paragraphs (a)(1) through (a)(5) of this section. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased composite panels.

(2) No later than June 11, 2014, procuring agencies, in accordance with this part, will give a procurement preference for those qualifying biobased composite panels specified in paragraph (a)(6) of this section. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased composite panels.

(d) Determining overlap with an EPA-designated recovered content product.
Qualifying biobased products that fall under this item may, in some cases, overlap with the following EPA-designated recovered content products: Laminated Paperboard and Structural Fiberboard; Shower and Restroom Dividers; and Signage. USDA is requesting that manufacturers of these qualifying biobased products provide information on the BioPreferred Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated laminated paperboard, structural fiberboard, shower and restroom dividers, and signage, and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Composite panel products within this designated item can be made with recycled material. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated laminated paperboard, structural fiberboard, shower and restroom dividers, and signage containing recovered materials as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.12. EPA provides recovered materials content recommendations for laminated paperboard and structural fiberboard, shower and restroom dividers, and signage in the Recovered Materials Advisory Notice (RMAN) published for these products. The RMAN recommendations can be found by accessing EPA’s Web site http://www.epa.gov/epaoswer/non-hw/procure/products.htm and then clicking on the appropriate product name.

[73 FR 27953, May 14, 2008, as amended at 78 FR 34872, June 11, 2013]

§ 3201.21 Disposable containers.

(a) Definition. Products designed to be used for temporary storage or transportation of materials including, but not limited to, food items.

(b) Minimum biobased content. The preferred procurement product must have a biobased content of at least 72 percent, which shall be based on the amount of qualifying biobased carbon in the finished product.

[73 FR 27953, May 14, 2008]
§ 3201.22 Fertilizers.

(a) Definition. Products formulated or processed to provide nutrients for plant growth and/or beneficial bacteria to convert nutrients into plant usable forms. Biobased fertilizers, which are likely to consist mostly of biobased components, may include both biobased and chemical components.

NOTE TO PARAGRAPH (a): Biobased fertilizers, as well as other fertilizers, may be made with recycled hazardous waste. Such fertilizers need to meet applicable land disposal restriction standards for any hazardous constituents they contain, as required under 40 CFR 266.20(d).

(b) Minimum biobased content. The preferred procurement product must have a biobased content of at least 71 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased fertilizers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased fertilizers.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying biobased products that fall under this item may, in some cases, overlap with the EPA-designated recovered content product: Fertilizer. USDA is requesting that manufacturers of these qualifying biobased products provide information on the BioPreferred Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Disposable containers can include boxes and packaging made from paper. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated paper and paper products containing recovered materials as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.10. EPA provides recovered materials content recommendations for paper and paper products in the Recovered Materials Advisory Notice (RMAN) published for these products. The RMAN recommendations can be found on EPA’s Web site http://www.epa.gov/epaoswer/non-hw/procure/products.htm and then clicking on the appropriate product name.

(e) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased disposable containers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased disposable containers.

73 FR 27953, May 14, 2008

§ 3201.22 Biodegradability. At the time a manufacturer offers a product under this item for Federal purchase under the BioPreferred Program, the preferred procurement product must be capable of meeting the current version of ASTM D6400 if disposed of in a non-marine environment, the current version of ASTM D7081 if disposed of in a marine environment, or other appropriate and applicable standard for biodegradability.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying biobased products that fall under this item may, in some cases, overlap with the EPA-designated recovered content product: Paper and Paper Products. USDA is requesting that manufacturers of these qualifying biobased products provide information on the BioPreferred Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Disposable containers can include boxes and packaging made from paper. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated paper and paper products containing recovered materials as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.10. EPA provides recovered materials content recommendations for paper and paper products in the Recovered Materials Advisory Notice (RMAN) published for these products. The RMAN recommendations can be found on EPA’s Web site http://www.epa.gov/epaoswer/non-hw/procure/products.htm and then clicking on the appropriate product name.
has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated fertilizer product and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Fertilizers within this designated item can be made with recycled materials. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated fertilizers containing recovered materials as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.15. EPA provides recovered materials content recommendations for fertilizers in the Recovered Materials Advisory Notice (RMAN) published for these products. The RMAN recommendations can be found by accessing EPA’s Web site http://www.epa.gov/epaoswer/non-hw/procure/products.htm and then clicking on the appropriate product name.

[73 FR 27953, May 14, 2008]

§ 3201.23 Sorbents.

(a) Definition. Materials formulated for use in the cleanup and bioremediation of oil and chemical spills, the disposal of liquid materials, or the prevention of leakage or leaching in maintenance applications, shop floors, and fuel storage areas.

(b) Minimum biobased content. The preferred procurement product must have a biobased content of at least 89 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased sorbents. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased sorbents.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying biobased products that fall under this item may, in some cases, overlap with the EPA-designated recovered content product: Sorbents. USDA is requesting that manufacturers of these qualifying biobased products provide information on the BioPreferred Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated sorbents and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Sorbents within this designated item can be made with recycled materials. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated sorbents containing recovered materials as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.17. EPA provides recovered materials content recommendations for sorbents in the Recovered Materials Advisory Notice (RMAN) published for these products. The RMAN recommendations can be found by accessing EPA’s Web site http://www.epa.gov/epaoswer/non-hw/procure/products.htm and then clicking on the appropriate product name.

[73 FR 27953, May 14, 2008]

§ 3201.24 Graffiti and grease removers.

(a) Definition. Industrial solvent products formulated to remove automotive, industrial, or kitchen soils and oils, including grease, paint, and other coatings, from hard surfaces.

(b) Minimum biobased content. The preferred procurement product must have a biobased content of at least 34 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. If the finished product is to be diluted before use, the biobased content of the remover must be determined before dilution.

(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for...
§ 3201.25 2-Cycle engine oils.

(a) **Definition.** Lubricants designed for use in 2-cycle engines to provide lubrication, decreased spark plug fouling, reduced deposit formation, and/or reduced engine wear.

(b) **Minimum biobased content.** The preferred procurement product must have a biobased content of at least 34 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) **Preference compliance date.** No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased 2-cycle engine oils. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased 2-cycle engine oils.

[73 FR 27973, May 14, 2008]

§ 3201.26 Lip care products.

(a) **Definition.** Personal care products formulated to replenish the moisture and/or prevent drying of the lips.

(b) **Minimum biobased content.** The preferred procurement product must have a biobased content of at least 82 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) **Preference compliance date.** No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased lip care products. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased lip care products.

[73 FR 27973, May 14, 2008]

§ 3201.27 Films.

(a) **Definition.** (1) Products that are used in packaging, wrappings, linings, and other similar applications.

(2) Films for which preferred procurement applies are:

(i) **Semi-durable films.** Films that are designed to resist water, ammonia, and other compounds, to be re-used, and to not readily biodegrade. Products in this item are typically used in the production of bags and packaging materials.

(ii) **Non-durable films.** Films that are intended for single use for short-term storage or protection before being discarded. Non-durable films that are designed to have longer lives when used are included in this item.

(b) **Minimum biobased content.** The minimum biobased content for all films shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. The applicable minimum biobased contents are:

(1) Semi-durable films—45 percent.

(2) Non-durable films—85 percent.

(c) **Preference compliance date.** No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased semi-durable and non-durable films. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased semi-durable and non-durable films.

(d) **Determining overlap with an EPA-designated recovered content product.** Qualifying products within the semi-durable films subcategory may overlap with the EPA-designated recovered content product: Plastic trash bags. USDA is requesting that manufacturers of these qualifying biobased products provide information for the BioPreferred Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to
biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated plastic trash bags and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Biobased semi-durable film products within this designated item can compete with plastic trash bag products with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated plastic trash bags containing recovered materials as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.36. EPA provides recovered materials content recommendations for plastic trash bags in the May 1, 1995, Recovered Materials Advisory Notice (RMAN I). The RMAN recommendations can be found on EPA’s Web site http://www.epa.gov/epaoswer/non-hw/procure/products.htm and then clicking on the appropriate product name.

[73 FR 27973, May 14, 2008]

§ 3201.28 Stationary equipment hydraulic fluids.

(a) Definition. Fluids formulated for use in stationary hydraulic equipment systems that have various mechanical parts, such as cylinders, pumps, valves, pistons, and gears, that are used for the transmission of power (and also for lubrication and/or wear, rust, and oxidation protection).

(b) Minimum biobased content. The preferred procurement product must have a biobased content of at least 44 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased stationary equipment hydraulic fluids. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased stationary equipment hydraulic fluids.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying biobased products that fall under this item may, in some cases, overlap with the EPA-designated recovered content product: Re-refined lubricating oils. USDA is requesting that manufacturers of these qualifying biobased products provide information for the BioPreferred Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated re-refined lubricating oils and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Stationary equipment hydraulic fluid products within this designated item can compete with hydraulic fluid products with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated re-refined lubricating oils containing recovered materials as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.11. EPA provides recovered materials content recommendations for re-refined lubricating oils in the May 1, 1995, Recovered Materials Advisory Notice (RMAN I). The RMAN recommendations can be found by accessing EPA’s Web site http://www.epa.gov/epaoswer/non-hw/procure/products.htm and then clicking on the appropriate product name.

[73 FR 27973, May 14, 2008]

§ 3201.29 Disposable cutlery.

(a) Definition. Hand-held, disposable utensils designed for one-time use in eating food.

(b) Minimum biobased content. The preferred procurement product must have a biobased content of at least 48 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will
give a procurement preference for qualifying biobased disposable cutlery. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased disposable cutlery.

(73 FR 27973, May 14, 2008)

§ 3201.31 Dust suppressants.

(a) Definition. Products formulated to reduce or eliminate the spread of dust associated with gravel roads, dirt parking lots, or similar sources of dust, including products used in equivalent indoor applications.

(b) Minimum biobased content. The preferred procurement product must have a biobased content of at least 85 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. If the finished product is to be diluted before use, the biobased content of the suppressant must be determined before dilution.
§ 3201.34 Carpet and upholstery cleaners.

(a) Definition. Carpet and upholstery cleaners formulated specifically for use in cleaning carpets and upholstery, through a dry or wet process, found in locations such as houses, cars, and workplaces.

(b) Minimum biobased content. The minimum biobased content for all carpet and upholstery cleaners shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased carpet and upholstery cleaners. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased dust suppressants.

(d) Determining overlap with an EPA-designated recovered content product. Carpets (polyester). USDA is requesting that manufacturers of these qualifying biobased products provide information for the BioPreferred Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated carpets (polyester) and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Biobased carpets within this designated item can compete with polyester carpet products with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated carpets (polyester) containing recovered materials as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.12. EPA provides recovered materials content recommendations for carpets (polyester) in the May 1, 1995, Recovered Materials Advisory Notice (RMAN 1). The RMAN recommendations can be found on EPA’s Web site http://www.epa.gov/epaswmer/non-hw/procure/products.htm and then clicking on the appropriate product name.
for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased carpet and upholstery cleaners.

[73 FR 27973, May 14, 2008]

§ 3201.35 Bathroom and spa cleaners.

(a) Definition. Products that are designed to clean and/or prevent deposits on surfaces found in bathrooms and spas including, but not necessarily limited to, bath tubs and spas, shower stalls, shower doors, shower curtains, and bathroom walls, floors, doors, and counter and sink tops. Products in this item may be designed to be applied to a specific type of surface or to multiple surface types. They are available both in concentrated and ready-to-use forms.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 74 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased bathroom and spa cleaners. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased bathroom and spa cleaners.

[73 FR 27994, May 14, 2008]

§ 3201.36 Concrete and asphalt release fluids.

(a) Definition. Products that are designed to provide a lubricating barrier between the composite surface materials (e.g., concrete or asphalt) and the container (e.g., wood or metal forms, truck beds, roller surfaces).

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 87 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased concrete and asphalt release fluids. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased concrete and asphalt release fluids.

[73 FR 27994, May 14, 2008]

§ 3201.37 General purpose de-icers.

(a) Definition. Chemical products (e.g., salt, fluids) that are designed to aid in the removal of snow and/or ice, and/or in the prevention of the buildup of snow and/or ice, in general use applications by lowering the freezing point of water. Specialized de-icer products, such as those used to de-ice aircraft and airport runways, are not included.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 93 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased general purpose de-icers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased general purpose de-icers.

[73 FR 27994, May 14, 2008]

§ 3201.38 Firearm lubricants.

(a) Definition. Lubricants that are designed for use in firearms to reduce the friction and wear between the moving parts of a firearm, and to keep the weapon clean and prevent the formation of deposits that could cause the weapon to jam.

(b) Minimum biobased content. The preferred procurement product must...
have a minimum biobased content of at least 49 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased firearm lubricants. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased firearm lubricants.

[73 FR 27994, May 14, 2008]

§ 3201.39 Floor strippers.

(a) Definition. Products that are formulated to loosen waxes, resins, or varnishes from floor surfaces. They can be in either liquid or gel form, and may also be used with or without mechanical assistance.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 78 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased floor strippers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased floor strippers.

[73 FR 27994, May 14, 2008]

§ 3201.40 Laundry products.

(a) Definitions. (1) Products that are designed to clean, condition, or otherwise affect the quality of the laundered material. Such products include but are not limited to laundry detergents, bleach, stain removers, and fabric softeners.

(2) Laundry products for which preferred procurement applies are:

(i) Pretreatment/spot removers. These are laundry products specifically used to pretreat laundry to assist in the removal of spots and stains during laundering.

(ii) General purpose laundry products. These are laundry products used for regular cleaning activities.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 46 percent.

(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased laundry products. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased laundry products.

[73 FR 27994, May 14, 2008]

§ 3201.41 Metalworking fluids.

(a) Definition. (1) Fluids that are designed to provide cooling, lubrication, corrosion prevention, and reduced wear on the contact parts of machinery used for metalworking operations such as cutting, drilling, grinding, machining, and tapping.

(2) Metalworking fluids for which preferred procurement applies are:

(i) Straight oils. Metalworking fluids that are not diluted with water prior to use and are generally used for metalworking processes that require lubrication rather than cooling.

(ii) General purpose soluble, semi-synthetic, and synthetic oils. Metalworking fluids formulated for use in a re-circulating fluid system to provide cooling, lubrication, and corrosion prevention when applied to metal feedstock during normal grinding and machining operations.
(iii) High performance soluble, semi-synthetic, and synthetic oils. Metalworking fluids formulated for use in a re-circulating fluid system to provide cooling, lubrication, and corrosion prevention when applied to metal feedstock during grinding and machining operations involving unusually high temperatures or corrosion potential.

(b) Minimum biobased content. The minimum biobased content shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. The applicable minimum biobased contents for the preferred procurement product are:

(1) Straight oils—66 percent.
(2) General purpose soluble, semi-synthetic, and synthetic oils—57 percent.
(3) High performance soluble, semi-synthetic, and synthetic oils—40 percent.

(c) Preference compliance date. (1) Straight oils. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased metalworking fluids—straight oils. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased metalworking fluids—straight oils.

(2) General purpose soluble, semi-synthetic, and synthetic oils. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased metalworking fluids—general purpose soluble, semi-synthetic, and synthetic oils. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased metalworking fluids—general purpose soluble, semi-synthetic, and synthetic oils.

(d) High performance soluble, semi-synthetic, and synthetic oils. Determination of the preference compliance date for metalworking fluids—high performance soluble, semi-synthetic, and synthetic oils is deferred until USDA identifies two or more manufacturers of biobased products within this subcategory. At that time, USDA will publish a document in the Federal Register announcing that Federal agencies have one year from the date of publication to give procurement preference to biobased metalworking fluids—high performance soluble, semi-synthetic, and synthetic oils.

[73 FR 27994, May 14, 2008]

§ 3201.42 Wood and concrete sealers.

(a) Definition. (1) Products that are penetrating liquids formulated to protect wood and/or concrete, including masonry and fiber cement siding, from damage caused by insects, moisture, and decaying fungi and to make surfaces water resistant.

(2) Wood and concrete sealers for which preferred procurement applies are:

(i) Penetrating liquids. Wood and concrete sealers that are formulated to penetrate the outer surface of the substrate.

(ii) Membrane concrete sealers. Concrete sealers that are formulated to form a protective layer on the surface of the substrate.

(b) Minimum biobased content. The minimum biobased content shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. The applicable minimum biobased contents for the preferred procurement product are:

(1) Penetrating liquids—79 percent.
(2) Membrane concrete sealers—11 percent.

(c) Preference compliance date. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased wood and concrete sealers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased wood and concrete sealers.

[73 FR 27994, May 14, 2008]
§ 3201.43 Chain and cable lubricants.

(a) Definition. Products designed to provide lubrication in such applications as bar and roller chains, sprockets, and wire ropes and cables. Products may also prevent rust and corrosion in these applications.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 77 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than October 27, 2010, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased chain and cable lubricants. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased chain and cable lubricants.

[74 FR 55093, Oct. 27, 2009]

§ 3201.44 Corrosion preventatives.

(a) Definition. Products designed to prevent the deterioration (corrosion) of metals.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 53 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than October 27, 2010, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased chain and cable lubricants. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased chain and cable lubricants.

[74 FR 55093, Oct. 27, 2009]

§ 3201.45 Food cleaners.

(a) Definition. Anti-microbial products designed to clean the outer layer of various food products, such as fruit, vegetables, and meats.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 53 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than October 27, 2010, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased food cleaners. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased food cleaners.

[74 FR 55093, Oct. 27, 2009]

§ 3201.46 Forming lubricants.

(a) Definition. Products designed to provide lubrication during metalworking applications that are performed under extreme pressure. Such metalworking applications include tube bending, stretch forming, press braking, and swaging.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 68 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than October 27, 2010, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased forming lubricants. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased forming lubricants.

[74 FR 55093, Oct. 27, 2009]

§ 3201.47 Gear lubricants.

(a) Definition. Products, such as greases or oils, that are designed to reduce friction when applied to a toothed machine part (such as a wheel or cylinder) that meshes with another
toothed part to transmit motion or to change speed or direction.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 58 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than October 27, 2010, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased gear lubricants. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of gear lubricants.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying biobased products that fall under this item may, in some cases, overlap with the following EPA-designated recovered content product: Lubricating oils containing re-refined oil. USDA is requesting that manufacturers of these qualifying biobased products provide information for the BioPreferred Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated re-refined lubricating oils and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Biobased gear lubricant products within this designated item can compete with similar gear lubricant products with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated re-refined lubricating oils containing recovered materials as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.11.

[74 FR 55093, Oct. 27, 2009]
§ 3201.53 Expanded polystyrene (EPS) foam recycling products.

(a) Definition. Products formulated to dissolve EPS foam to reduce the volume of recycled or discarded EPS items.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 90 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.
§ 3201.54 Heat transfer fluids.

(a) Definition. Products with high thermal capacities used to facilitate the transfer of heat from one location to another, including coolants or refrigerants for use in HVAC applications, internal combustion engines, personal cooling devices, thermal energy storage, or other heating or cooling closed-loops.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 89 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than October 18, 2011, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased heat transfer fluids. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased heat transfer fluids.

[75 FR 63701, Oct. 18, 2010]

§ 3201.55 Ink removers and cleaners.

(a) Definition. Chemical products designed to remove ink, haze, glaze, and other residual ink contaminants from the surfaces of equipment, such as rollers, used in the textile and printing industries.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 79 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than October 18, 2011, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased ink removers and cleaners. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased ink removers and cleaners.

[75 FR 63701, Oct. 18, 2010]

§ 3201.56 Mulch and compost materials.

(a) Definition. Products designed to provide a protective covering placed over the soil, primarily to keep down weeds and to improve the appearance of landscaping. Compost is the aerobically decomposed remnants of organic materials used in gardening and agriculture as a soil amendment, and commercially by the landscaping and container nursery industries.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 95 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than October 18, 2011, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased mulch and compost materials. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased mulch and compost materials.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying products within this item may overlap with the EPA-designated recovered content product: Landscaping products—“compost” and “hydraulic mulch”. USDA is requesting that manufacturers of these qualifying biobased products provide information on the USDA Web site of qualifying biobased products about the intended
uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated landscaping products and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Biobased mulch and compost materials within this designated item can compete with similar landscaping products with recycled content. Under the Resource Conservation and Recovery Act of 1978, section 6002, the U.S. Environmental Protection Agency designated landscaping products containing recovered materials as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.15.

[75 FR 63701, Oct. 18, 2010]

§ 3201.57 Multipurpose lubricants.

(a) Definition. Products designed to provide lubrication under a variety of conditions and in a variety of industrial settings to prevent friction or rust. Greases, which are lubricants composed of oils thickened to a semisolid or solid consistency using soaps, polymers or other solids, or other thickeners, are not included in this item. In addition, task-specific lubricants, such as chain and cable lubricants and gear lubricants, are not included in this item.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 88 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than October 18, 2011, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased multipurpose lubricants. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased multipurpose lubricants.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying products within this item may overlap with the EPA-designated recovered content product: Re-refined lubricating oils. USDA is requesting that manufacturers of these qualifying biobased products provide information on the BioPreferred Web site about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated re-refined lubricating oils and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Biobased multipurpose lubricant products within this designated item can compete with similar multipurpose lubricant products with recycled content. Under the Resource Conservation and Recovery Act of 1978, section 6002, the U.S. Environmental Protection Agency designated re-refined lubricating oils containing recovered materials as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.11.

[75 FR 63701, Oct. 18, 2010]

§ 3201.58 [Reserved]

§ 3201.59 Topical pain relief products.

(a) Definition. Products that can be balms, creams and other topical treatments used for the relief of muscle, joint, headache, and nerve pain, as well as sprains, bruises, swelling, and other aches.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 91 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than October 18, 2011, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased topical pain relief
products. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased topical pain relief products.

[75 FR 63701, Oct. 18, 2010]

§ 3201.60 Turbine drip oils.

(a) Definition. Products that are lubricants for use in drip lubrication systems for water well line shaft bearings, water turbine bearings for irrigation pumps, and other turbine bearing applications.

(b) Minimum biobased content. The preferred procurement product must have a minimum biobased content of at least 87 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than October 18, 2011, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased turbine drip oils. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased turbine drip oils.

[75 FR 63701, Oct. 18, 2010]

§ 3201.61 Animal repellents.

(a) Definition. Products used to aid in deterring animals that cause destruction to plants and/or property.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 79 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than July 23, 2012, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased animal repellents. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased animal repellents.

[76 FR 43817, July 22, 2011]

§ 3201.62 Bath products.

(a) Definition. Personal hygiene products including bar soaps, liquids, or gels that are referred to as body washes, body shampoos, or cleansing lotions, but excluding products marketed as hand cleaners and/or hand sanitizers.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 61 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than July 23, 2012, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased bath products. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased bath products.

[76 FR 43817, July 22, 2011]

§ 3201.63 Bioremediation materials.

(a) Definition. Dry or liquid solutions (including those containing bacteria or other microbes but not including sorbent materials) used to clean oil, fuel, and other hazardous spill sites.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 86 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than July 23, 2012, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased bioremediation materials. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for
items to be procured shall ensure that the relevant specifications require the use of biobased bioremediation materials.

[76 FR 43817, July 22, 2011]

§ 3201.64 Compost activators and accelerators.

(a) Definition. Products in liquid or powder form designed to be applied to compost piles to aid in speeding up the composting process and to ensure successful compost that is ready for consumer use.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 95 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than July 23, 2012, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased compost activators and accelerators. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased compost activators and accelerators.

[76 FR 43817, July 22, 2011]

§ 3201.65 Concrete and asphalt cleaners.

(a) Definition. Chemicals used in concrete etching as well as to remove petroleum-based soils, lubricants, paints, mastics, organic soils, rust, and dirt from concrete, asphalt, stone and other hard porous surfaces. Products within this item include only those marketed for use in commercial or residential construction or industrial applications.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 70 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than July 23, 2012, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased concrete and asphalt cleaners. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased concrete and asphalt cleaners.

[76 FR 43817, July 22, 2011]

§ 3201.66 Cuts, burns, and abrasions ointments.

(a) Definition. Products designed to aid in the healing and sanitizing of scratches, cuts, bruises, abrasions, sun damaged skin, tattoos, rashes and other skin conditions.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 84 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than July 23, 2012, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased cuts, burns, and abrasions ointments. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased cuts, burns, and abrasions ointments.

[76 FR 43817, July 22, 2011]

§ 3201.67 Dishwashing products.

(a) Definition. Soaps and detergents used for cleaning and clean rinsing of tableware in either hand washing or dishwashing.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 58 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.
§ 3201.68 Preference compliance date. No later than July 23, 2012, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased dishwashing products. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased dishwashing products.

(76 FR 43817, July 22, 2011)

§ 3201.69 Floor cleaners and protectors.

(a) Definition. Cleaning solutions for either direct application or use in floor scrubbers for wood, vinyl, tile, or similar hard surface floors. Products within this item are marketed specifically for use on industrial, commercial, and/or residential flooring.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 77 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than July 23, 2012, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased floor cleaners and protectors. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased floor cleaners and protectors.

(76 FR 43817, July 22, 2011)

§ 3201.70 Hair care products.

(a) Definitions. (1) Personal hygiene products specifically formulated for hair cleaning and treating applications, including shampoos and conditioners.

(ii) Conditioners. These are products whose primary purpose is treating hair to improve the overall condition of hair.

(b) Minimum biobased content. The minimum biobased content for all hair care products shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. The applicable minimum biobased contents for the Federal preferred procurement products are:

(1) Shampoos—66 percent.

(2) Conditioners—78 percent.

(c) Preference compliance date. No later than July 23, 2012, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased hair care products. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased hair care products.
specifications require the use of biobased hair care products.

§ 3201.71 Interior paints and coatings.

(a) Definition. (1) Pigmented liquids, formulated for use indoors, that dry to form a film and provide protection and added color to the objects or surfaces to which they are applied.

(2) Interior paints and coatings products for which Federal preferred procurement applies are:

(i) Interior latex and waterborne alkyd paints and coatings.

(ii) Interior oil-based and solventborne alkyd paints and coatings.

(b) Minimum biobased content. The minimum biobased content for all interior paints and coatings products shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. The applicable minimum biobased contents for the Federal preferred procurement products are:

(1) Interior latex and waterborne alkyd paints and coatings—20 percent.

(2) Interior oil-based and solventborne alkyd paints and coatings—67 percent.

(c) Preference compliance date. No later than July 23, 2012, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased interior paints and coatings. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased interior paints and coatings.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying biobased products within the interior latex and waterborne alkyd paints and coatings subcategory may, in some cases, overlap with the EPA-designated recovered content products: Reprocessed latex paints and consolidated latex paints. USDA is requesting that manufacturers of these qualifying biobased products provide information on the USDA Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated reprocessed latex paints and consolidated latex paints and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Biobased interior latex and waterborne alkyd paints and coatings products within this subcategory can compete with similar reprocessed latex paint and consolidated latex paint products with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated reprocessed latex paints and consolidated latex paints containing recovered materials as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.12.

§ 3201.72 Oven and grill cleaners.

(a) Definition. Liquid or gel cleaning agents used on high temperature cooking surfaces such as barbeques, smokers, grills, stoves, and ovens to soften and loosen charred food, grease, and residue.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 66 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than July 23, 2012, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased oven and grill cleaners. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased oven and grill cleaners.
§ 3201.73  Slide way lubricants.
(a) Definition. Products used to provide lubrication and eliminate stick-slip and table chatter by reducing friction between mating surfaces, or slides, found in machine tools.
(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 74 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.
(c) Preference compliance date. No later than July 23, 2012, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased slide way lubricants. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased slide way lubricants.

[76 FR 43817, July 22, 2011]

§ 3201.74  Thermal shipping containers.
(a) Definitions. (1) Insulated containers designed for shipping temperature-sensitive materials.
(2) Thermal shipping containers for which Federal preferred procurement applies are:
(i) Durable thermal shipping container. These are thermal shipping containers that are designed to be reused over an extended period of time.
(ii) Non-durable thermal shipping containers. These are thermal shipping containers that are designed to be used once.
(b) Minimum biobased content. The minimum biobased content for all thermal shipping container products shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. The applicable minimum biobased contents for the Federal preferred procurement products are:
(1) Durable thermal shipping containers—21 percent.
(2) Non-durable thermal shipping containers—82 percent.
(c) Preference compliance date—(1) Durable thermal shipping containers. Determination of the preference compliance date for durable thermal shipping containers is deferred until USDA identifies two or more manufacturers of biobased durable thermal shipping containers. At that time, USDA will publish a document in the Federal Register announcing that Federal agencies have one year from the date of publication to give procurement preference to biobased durable thermal shipping containers.
(2) Non-durable thermal shipping containers. Determination of the preference compliance date for non-durable thermal shipping containers is deferred until USDA identifies two or more manufacturers of biobased non-durable thermal shipping containers. At that time, USDA will publish a document in the Federal Register announcing that Federal agencies have one year from the date of publication to give procurement preference to biobased non-durable thermal shipping containers.

[76 FR 43817, July 22, 2011]

§ 3201.75  Air fresheners and deodorizers.
(a) Definition. Products used to alleviate the experience of unpleasant odors by chemical neutralization, absorption, anesthetization, or masking.
(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 97 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.
(c) Preference compliance date. No later than April 4, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased air fresheners and deodorizers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased air fresheners and deodorizers.

[77 FR 20289, Apr. 4, 2012]
§ 3201.76 Asphalt and tar removers.

(a) Definition. Cleaning agents designed to remove asphalt or tar from equipment, roads, or other surfaces.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 80 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than April 4, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased asphalt and tar removers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased asphalt and tar removers.

[77 FR 20289, Apr. 4, 2012]

§ 3201.77 Asphalt restorers.

(a) Definition. Products designed to seal, protect, or restore poured asphalt and concrete surfaces.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 68 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than April 4, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased asphalt restorers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased asphalt restorers.

[77 FR 20289, Apr. 4, 2012]

§ 3201.78 Blast media.

(a) Definition. Abrasive particles sprayed forcefully to clean, remove contaminants, or condition surfaces, often preceding coating.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 94 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than April 4, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased blast media. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased blast media.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying products within this item may overlap with the EPA-designated recovered content product: Miscellaneous products—blasting grit. USDA is requesting that manufacturers of these qualifying biobased products provide information on the USDA Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated blasting grit products and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Biobased blast media within this designated product category can compete with similar blasting grit products with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated blasting grit products containing recovered materials as products for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.17.

[77 FR 20289, Apr. 4, 2012]

§ 3201.79 Candles and wax melts.

(a) Definition. Products composed of a solid mass and either an embedded
wick that is burned to provide light or aroma, or that are wickless and melt when heated to produce an aroma.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 88 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than April 4, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased candles and wax melts. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased candles and wax melts.

[77 FR 20289, Apr. 4, 2012]

§ 3201.80 Electronic components cleaners.

(a) Definition. Products that are designed to wash or remove dirt or extraneous matter from electronic parts, devices, circuits, or systems.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 91 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than April 4, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased electronic components cleaners. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased electronic components cleaners.

[77 FR 20289, Apr. 4, 2012]

§ 3201.81 Floor coverings (non-carpet).

(a) Definition. Products, other than carpet products, that are designed for use as the top layer on a floor. Examples are bamboo, hardwood, and cork tiles.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 91 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than April 4, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased floor coverings (non-carpet). By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased floor coverings (non-carpet).

(d) Determining overlap with an EPA-designated recovered content product. Qualifying products within this item may overlap with the EPA-designated recovered content product: Construction Products—floor tiles. USDA is requesting that manufacturers of these qualifying biobased products provide information on the USDA Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated floor tile products and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Biobased floor coverings within this designated product category can compete with similar floor tile products with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated floor tile products containing recovered materials as products for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.17.

[77 FR 20289, Apr. 4, 2012]
§ 3201.82 Foot care products.

(a) Definition. Products formulated to be used in the soothing or cleaning of feet.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 83 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than April 4, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased foot care products. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased foot care products.

[77 FR 20289, Apr. 4, 2012]

§ 3201.83 Furniture cleaners and protectors.

(a) Definition. Products designed to clean and provide protection to the surfaces of household furniture other than the upholstery.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 71 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than April 4, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased furniture cleaners and protectors. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased furniture cleaners and protectors.

[77 FR 20289, Apr. 4, 2012]

§ 3201.84 Inks.

(a) Definitions. (1) Inks are liquid or powdered materials that are available in several colors and that are used to create the visual image on a substrate when writing, printing, and copying. (2) Inks for which Federal preferred procurement applies are:

(i) Specialty inks. Inks used by printers to add extra characteristics to their prints for special effects or functions. Specialty inks include, but are not limited to: CD printing, erasable, FDA compliant, invisible, magnetic, scratch and sniff, thermochromic, and tree marking inks.

(ii) Inks (sheetfed—color). Pigmented inks (other than black inks) used on coated and uncoated paper, paperboard, some plastic, and foil to print in color on annual reports, brochures, labels, and similar materials.

(iii) Inks (sheetfed—black). Black inks used on coated and uncoated paper, paperboard, some plastic, and foil to print in black on annual reports, brochures, labels, and similar materials.

(iv) Inks (printer toner—<25 pages per minute (ppm)). Inks that are a powdered chemical, used in photocopiers and laser printers, which is transferred onto paper to form the printed image. These inks are formulated to be used in printers with standard fusing mechanisms and print speeds of less than 25 ppm.

(v) Inks (printer toner—≥25 ppm). Inks that are a powdered chemical, used in photocopiers and laser printers, which is transferred onto paper to form the printed image. These inks are formulated to be used in printers with advanced fusing mechanisms and print speeds of 25 ppm or greater.

(vi) Inks (news). Inks used primarily to print newspapers.

(b) Minimum biobased content. The minimum biobased content for all inks shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. The applicable minimum biobased contents for the Federal preferred procurement products are:

(1) Specialty inks—66 percent.

(2) Inks (sheetfed—color)—67 percent.

(3) Inks (sheetfed—black)—49 percent.

(4) Inks (printer toner—<25 ppm)—34 percent.

(5) Inks (printer toner—≥25 ppm)—20 percent.
§ 3201.85  Inks (news)—32 percent.

(c) Preference compliance date. No later than April 4, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased inks. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased inks.

[77 FR 20289, Apr. 4, 2012]

§ 3201.85  Packing and insulating materials.

(a) Definition. Pre-formed and molded materials that are used to hold package contents in place during shipping or for insulating and sound proofing applications.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 74 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than April 4, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased packing and insulating materials. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased packing and insulating materials.

[77 FR 20289, Apr. 4, 2012]

§ 3201.86  Pneumatic equipment lubricants.

(a) Definition. Lubricants designed specifically for pneumatic equipment, including air compressors, vacuum pumps, in-line lubricators, rock drills, jackhammers, etc.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 67 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than April 4, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased pneumatic equipment lubricants. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased pneumatic equipment lubricants.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying products within this item may overlap with the EPA-designated recovered content product: Vehicular Products—re-refined lubricating oils. USDA is requesting that manufacturers of these qualifying biobased products provide information on the USDA Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated re-refined lubricating oil products and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Biobased pneumatic equipment lubricants within this designated product category can compete with similar re-refined lubricating oil products with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated re-refined lubricating oil products containing recovered materials as products for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.17.

[77 FR 20289, Apr. 4, 2012]

§ 3201.87  Wood and concrete stains.

(a) Definition. Products that are designed to be applied as a finish for concrete and wood surfaces and that contain dyes or pigments to change the color without concealing the grain pattern or surface texture.
§ 3201.91 Dethatcher products.

(a) Definition. Products used to remove non-decomposed plant material accumulated in grassy areas.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 57 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.
must have a minimum biobased content of at least 87 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than November 19, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased dethatchers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased dethatchers.

[77 FR 69386, Nov. 19, 2012]

§ 3201.92 Fuel conditioners.

(a) Definition. Products formulated to improve the performance and efficiency of engines by providing benefits such as removing accumulated deposits, increasing lubricity, removing moisture, increasing the cetane number, and/or preventing microbial growths within the fuel system.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 64 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than November 19, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased fuel conditioners. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased fuel conditioners.

[77 FR 69386, Nov. 19, 2012]

§ 3201.93 Leather, vinyl, and rubber care products.

(a) Definition. Products that help clean, nourish, protect, and restore leather, vinyl, and rubber surfaces, including cleaners, conditioners, protectants, polishes, waxes, etc.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 55 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than November 19, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased leather, vinyl, and rubber care products. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased leather, vinyl, and rubber care products.

[77 FR 69386, Nov. 19, 2012]

§ 3201.94 Lotions and moisturizers.

(a) Definition. Creams and oils used to soften and treat damaged skin.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 59 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than November 19, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased lotions and moisturizers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased lotions and moisturizers.

[77 FR 69386, Nov. 19, 2012]

§ 3201.95 Shaving products.

(a) Definition. Products designed for every step of the shaving process, including shaving creams, gels, soaps, lotions, and aftershave balms.

(b) Minimum biobased content. The Federal preferred procurement product
Office of Procurement and Property Management, USDA

§ 3201.99 Water clarifying agents.

(a) Definition. Products designed to clarify and improve the quality of water by reducing contaminants such as excess nitrites, nitrates, phosphates,
§ 3201.100 Aircraft and boat cleaners.

(a) Definition. (1) Aircraft and boat cleaners are products designed to remove built-on grease, oil, dirt, pollution, insect reside, or impact soils on both interior and exterior of aircraft and/or boats.

(2) Aircraft and boat cleaners for which Federal preferred procurement applies are:

(i) Aircraft cleaners. Cleaning products designed to remove built-on grease, oil, dirt, pollution, insect reside, or impact soils on both interior and exterior of aircraft.

(ii) Boat cleaners. Cleaning products designed to remove built-on grease, oil, dirt, pollution, insect reside, or impact soils on both interior and exterior of boats.

(b) Minimum biobased content. The minimum biobased content for all aircraft and boat cleaners shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. The applicable minimum biobased contents for the Federal preferred procurement products are:

(1) Aircraft cleaners—48 percent.

(2) Boat cleaners—38 percent.

(c) Preference compliance date. No later than June 11, 2014, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased aircraft and boat cleaners. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased aircraft and boat cleaners.

[78 FR 34872, June 11, 2013]
(c) Preference compliance date. No later than June 11, 2014, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased engine crankcase oils. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased engine crankcase oils.

(d) Determining overlap with an EPA-designated recovered content product. Qualifying products within this item may overlap with the EPA-designated recovered content product: Re-refined lubricating oils. USDA is requesting that manufacturers of these qualifying biobased products provide information on the USDA Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated re-refined lubricating oil products and which product should be afforded the preference in purchasing.

NOTE TO PARAGRAPH (d): Engine crankcase oils within this designated product category can compete with similar re-refined lubricating oils. USDA is requesting that manufacturers of these qualifying biobased products provide information on the USDA Web site of qualifying biobased products about the intended uses of the product, information on whether or not the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated re-refined lubricating oil products and which product should be afforded the preference in purchasing.

§ 3201.103 Gasoline fuel additives.

(a) Definition. Chemical agents added to gasoline to increase octane levels, improve lubricity, and provide engine cleaning properties to gasoline-fired engines.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 92 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

§ 3201.104 Metal cleaners and corrosion removers.

(a) Definition. (1) Products that are designed to clean and remove grease, oil, dirt, stains, soils, and rust from metal surfaces.

(2) Metal cleaners and corrosion removers for which Federal preferred procurement applies are:

(i) Corrosion removers. Products that are designed to remove rust from metal surfaces through chemical action.

(ii) Stainless steel cleaners. Products that are designed to clean and remove grease, oil, dirt, stains, and soils from stainless steel surfaces.

(iii) Other metal cleaners. Products that are designed to clean and remove grease, oil, dirt, stains, and soils from metal surfaces other than stainless steel.

(b) Minimum biobased content. The minimum biobased content for all metal cleaners and corrosion removers shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product. The applicable minimum biobased contents for the Federal preferred procurement products are:

(1) Corrosion removers—71 percent.

(2) Stainless steel cleaners—75 percent.

(3) Other metal cleaners—56 percent.

(c) Preference compliance date. No later than June 11, 2014, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased metal cleaners and corrosion removers.

[78 FR 34872, June 11, 2013]
corrosion removers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased metal cleaners and corrosion removers.

(78 FR 34872, June 11, 2013)

§ 3201.105 Microbial cleaning products.

(a) Definition. (1) Cleaning agents that use microscopic organisms to treat or eliminate waste materials within drains, plumbing fixtures, sewage systems, wastewater treatment systems, or on a variety of other surfaces. These products typically include organisms that digest protein, starch, fat, and cellulose.

(2) Microbial cleaning products for which Federal preferred procurement applies are:

(i) Drain maintenance products. Products containing microbial agents that are intended for use in plumbing systems such as sinks, showers, and tubs.

(ii) Wastewater maintenance products. Products containing microbial agents that are intended for use in wastewater systems such as sewer lines and septic tanks.

(iii) General cleaners. Products containing microbial agents that are intended for multi-purpose cleaning in locations such as residential and commercial kitchens and bathrooms.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 45 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than June 11, 2014, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased microbial cleaning products. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased microbial cleaning products.

(78 FR 34872, June 11, 2013)

§ 3201.106 Paint removers.

(a) Definition. Products formulated to loosen and remove paint from painted surfaces.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 41 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than June 11, 2014, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased paint removers. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased paint removers.

(78 FR 34872, June 11, 2013)

§ 3201.107 Water turbine bearing oils.

(a) Definition. Lubricants that are specifically formulated for use in the bearings found in water turbines for electric power generation. Previously designated turbine drip oils are used to lubricate bearings of shaft driven water well turbine pumps.

(b) Minimum biobased content. The Federal preferred procurement product must have a minimum biobased content of at least 46 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) Preference compliance date. No later than June 11, 2014, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased water turbine bearing oils. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for products to be procured shall ensure
Office of Procurement and Property Management, USDA  § 3202.2

that the relevant specifications require the use of biobased water turbine bearing oils.

[78 FR 34872, June 11, 2013]

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.


§ 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.)
Office of Procurement and Property Management, USDA  § 3202.4

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.

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 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.


§ 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.
§ 3202.5 Initial approval process.

(a) Application. Manufacturers and vendors seeking USDA approval to use the certification mark for an eligible biobased product must submit a USDA-approved application for each biobased product. A standardized application form and instructions are available on the USDA BioPreferred Program Web
The contents of an acceptable application are as specified in paragraphs (a)(1) through (a)(4) of this section.

(1) General content. The applicant must provide contact information and product information including all brand names or other identifying information, biobased content and testing documentation, intended uses, and, if applicable, the corresponding product category classification for Federal preferred procurement. The applicant must attach to the application documentation demonstrating that the reported biobased content was tested by a third-party testing entity that is ISO 9001 conformant.

(2) Certifications. The applicant must certify in the application that the product for which use of the certification mark is sought is a biobased product as defined in §3202.2 of this part.

(3) Commitments. The applicant must sign a statement in the application that commits the applicant to submitting to USDA the information specified in paragraph (c)(1) through (c)(4) of this section, which USDA will post to the USDA BioPreferred Program Web site, and to providing USDA with up-to-date information for posting on this Web site.

(4) Application fee. Effective (date to be added after authority to collect fee is granted), applicants must submit an application fee of $500 with each completed application for certification. Instructions for submitting the application fee are available on the USDA BioPreferred Program Web site (http://www.biopreferred.gov), along with the application form and instructions.

(b) Evaluation of application. (1) USDA will evaluate each complete application to determine if it contains the information specified in paragraph (a) of this section. If USDA determines that the application is not complete, USDA will return the application to the applicant with an explanation of its deficiencies. Once the deficiencies have been addressed, the applicant may resubmit the application, along with a cover letter explaining the changes made, for re-evaluation by USDA. USDA will evaluate resubmitted applications separately from first-time applications, and those with the earliest original application submittal date will be given first priority.

(2)(i) USDA will evaluate each complete application to determine compliance with the criteria specified in §3202.4. USDA will provide a written response to each applicant within 60 days after the receipt of a complete application, informing the applicant of whether the application has been conditionally approved or has been disapproved.

(ii) For those applications that are conditionally approved, a notice of certification, as specified in paragraph (c) of this section, must be issued before the use of the certification mark can begin.

(iii) For those applications that are disapproved, USDA will issue a notice of denial of certification and will inform the applicant in writing of each criterion not met. Applicants who receive a notice of denial of certification may appeal using the procedures specified in §3202.6.

(c) Notice of certification. After notification that its application has been conditionally approved, the applicant must provide to USDA (for posting by USDA on the USDA BioPreferred Program Web site) the information specified in paragraphs (c)(1) through (c)(4) of this section. Once USDA confirms that the information is received and complete, USDA will issue a notice of certification to the applicant. Upon receipt of a notice of certification, the applicant may begin using the certification mark on the certified biobased product.

(1) The product’s brand name(s), or other identifying information.

(2) Contact information, including the name, mailing address, email address, and telephone number of the applicant.

(3) The biobased content of the product.

(4) A hot link directly to the applicant’s Web site (if available).

(d) Term of certification. (1) The effective date of certification is the date that the applicant receives a notice of certification from USDA. Except as specified in paragraphs (d)(2)(i) through (d)(2)(iii) of this section, certifications will remain in effect as long as the
§ 3202.6 Appeal processes.

An applicant for certification may appeal a notice of denial of certification to the Program Manager. Entities that have received a notice of violation, and manufacturers and vendors of certified biobased products who have received a notice of suspension or revocation, may appeal to the Program Manager.

(a)(1) Appeals to the Program Manager must be filed within 30 days of receipt by the appellant of a notice of denial of certification, a notice of violation, a notice of suspension, or a notice of revocation. Appeals must be filed in writing and addressed to: Program Manager, USDA Voluntary Labeling Program for Biobased Products, Room 361, Reporters Building, 300 Seventh Street, SW., Washington, DC 20024.

(2) All appeals must include a copy of the adverse decision and a statement of the appellant’s reasons for believing that the decision was not made in accordance with applicable program regulations, policies, or procedures, or otherwise was not proper.

(b)(1) If the Program Manager sustains an applicant’s appeal of a notice of denial of certification, USDA will issue a notice of certification to the applicant for its biobased product.

(2) If the Program Manager sustains a manufacturer’s or vendor’s appeal of a notice of violation, USDA will rescind the notice and no further action will be taken by USDA.

(3) If the Program Manager sustains a manufacturer’s or vendor’s appeal of a notice of suspension, the manufacturer, vendor, and their designated representative(s) may immediately resume affixing the certification mark to the certified biobased product and USDA will reinstate the product’s information to the USDA BioPreferred Program Web site.

(4) If the Program Manager sustains a manufacturer’s or vendor’s appeal of a notice of revocation, the manufacturer or vendor, and its designated representatives may immediately resume affixing the certification mark to the certified biobased product and sell and
§ 3202.7 Requirements associated with the certification mark.

(a) Who may use the certification mark?

(1) Manufacturers and vendors. Only manufacturers and vendors who have received a notice of certification, or designated representatives of the manufacturer or vendor, may affix the official certification mark (in one of the three variations, as applicable) to the product or its packaging. A manufacturer or vendor who has received a notice of certification for a product under this part:

(i) May use the certification mark on the product, its packaging, and other related materials including, but not limited to, advertisements, catalogs, specification sheets, procurement databases, promotional material, Web sites, or user manuals for that product, according to the requirements set forth in this section; and

(ii) Is responsible for the manner in which the mark is used by its companies, as well as its designated representatives, including advertising agencies, marketing and public relations firms and subcontractors.

(2) Other entities. (i) Other entities may use the mark to advertise or promote certified biobased products in materials including, but not limited to, advertisements, catalogs, procurement databases, Web sites, and promotional and educational materials, as long as the manufacturer or vendor of the product, or one of their designated representatives, has affixed the mark to the product or its packaging.

(ii) Other entities may use the certification mark; the phrase “USDA Certified Biobased Product/Package/Label & Package,” as applicable; and the BioPreferred Program name in general statements as described in paragraph (b) of this section, as long as the statements do not imply that a non-certified biobased product is certified.

(b) Correct usage of the certification mark. (1) The certification mark can be affixed only to certified biobased products and their associated packaging.

(2) The certification mark may be used in material including, but not limited to, advertisements, catalogs, procurement databases, Web sites, and promotional and educational materials to distinguish products that are certified for use of the label from those that are not certified. The certification mark may be used in advertisements for both certified biobased products and non-certified/labeled products if the advertisement clearly indicates which products are certified/labeled. Care must be taken to avoid implying that any non-certified products are certified.

(3) The certification mark may be used without reference to a specific certified biobased product only when informing the public about the purpose of the certification mark. For example, the following or similar claim is acceptable: “Look for the ‘USDA Certified Biobased Product’ certification mark. It means that the product meets USDA standards for the amount of biobased content and the manufacturer or vendor has provided relevant information on the product to be posted on the USDA BioPreferred Program Web site.” This exception allows manufacturers, vendors, and other entities to use the certification mark in documents such as corporate reports, but only in an informative manner, not as a statement of product certification.
(4) The certification mark may appear next to a picture of the product(s) or text describing it.

(5) The certification mark must stand alone and not be incorporated into any other certification mark or logo designs.

(6) The certification mark may be used as a watermark provided the use does not violate any usage restrictions specified in this part.

(7) The text portion of the certification mark must be written in English and may not be translated, even when the certification mark is used outside of the United States.

(c) Incorrect usage of the certification mark.

(1) The certification mark shall not be used on any product that has not been certified by USDA as a “USDA Certified Biobased Product.”

(2) The certification mark shall not be used on any advertisements or informational materials where both certified biobased products and non-certified products are shown unless it is clear that the certification mark applies to only the certified biobased product(s).

(3) The certification mark shall not be used to imply endorsement by USDA or the BioPreferred Program of any particular product, service, or company.

(4) The certification mark shall not be used in any form that could be misleading to the consumer.

(5) The certification mark shall not be used by manufacturers or vendors of certified products in a manner disparaging to USDA or any other government body.

(6) The certification mark shall not be used with an altered certification mark or incorporated into other label or logo designs.

(7) The certification mark shall not be used on business cards, company letterhead, or company stationery.

(8) The certification mark shall not be used in, or as part of, any company name, logo, product name, service, or Web site, except as may be provided for in this part.

(9) The certification mark shall not be used in a manner that violates any of the applicable requirements contained in this part.

(d) Imported products. The certification mark can be used only with a product that is certified by USDA under this part. The certification mark cannot be used to imply that a product meets or exceeds the requirements of biobased programs in other countries. Products imported for sale in the U.S. must adhere to the same guidelines as U.S.-sourced biobased products. Any product sold in the U.S. as a “USDA Certified Biobased Product/Package/ Product & Package” must have received certification from USDA.

(e) Contents of the certification mark.

The certification mark shall consist of the certification mark artwork, the biobased content percentage, and one of the three variations of text specified in paragraphs (e)(1) through (e)(3) of this section, as applicable.

(1) USDA Certified Biobased Product.

(2) USDA Certified Biobased Product: Package.

(3) USDA Certified Biobased Product & Package.

(f) Physical aspects of the certification mark.

The certification mark artwork may not be altered, cut, separated into components, or distorted in appearance or perspective. Certification marks that are applied to biobased products that have been designated for preferred Federal procurement will include the letters “FP” as part of the certification mark artwork. The certification mark must appear only in the colors specified in paragraphs (f)(1) through (f)(3) of this section, unless approval is given by USDA for an exception.

(1) A multi-color version of the certification mark is preferred. The certification mark colors to be applied will be stipulated in the “Marketing Guides” document, available on the USDA BioPreferred Program Web site (http://www.biopreferred.gov).

(2) A one-color version of the certification mark may be substituted for the multi-color version as long as the one color used is one of the multi-color choices reapplied without modification. Further guidance on the one-color certification mark application will also be detailed in the “Marketing Guides.”

(3) A black and white version of the certification mark is acceptable.

(g) Placement of the certification mark.

(1) The certification mark can appear
directly on a product, its associated packaging, in user manuals, and in other materials including, but not limited to, advertisements, catalogs, procurement databases, and promotional and educational materials.

(2) The certification mark shall not be placed in a manner that is ambiguous about which product is a certified biobased product or that could indicate certification of a non-certified product.

(3) When used to distinguish a certified biobased product in material including, but not limited to, advertisements, catalogs, procurement databases, Web sites, and promotional and educational materials, the certification mark must appear near a picture of the product or the text describing it.

(i) If all products on a page are certified biobased products, the certification mark may be placed anywhere on the page.

(ii) If a page contains a mix of certified biobased products and non-certified products, the certification mark shall be placed in close proximity to the certified biobased products. An individual certification mark near each certified biobased product may be necessary to avoid confusion.

(b) Minimum size and clear space recommendations for the certification mark.

(1) The certification mark may be sized to fit the individual application as long as the correct proportions are maintained and the certification mark remains legible.

(2) A border of clear space must surround the certification mark and must be of sufficient width to offset it from surrounding images and text and to avoid confusion. If the certification mark’s color is similar to the background color of the product or packaging, the certification mark in a contrasting (i.e., black, white) color may be used.

(i) Where to obtain copies of the certification mark artwork. The certification mark artwork is available at the USDA BioPreferred Program Web site http://www.biopreferred.gov.

§ 3202.8 Violations.

This section identifies the types of actions that USDA considers violations under this part and the penalties (e.g., the suspension or revocation of certification) associated with such violations.

(a) General. Violations under this section occur on a per product basis and the penalties are to be applied on a per product basis. Entities cited for a violation under this section may appeal using the provisions in §3202.6. If certification for a product is revoked, the manufacturer or vendor whose certification has been revoked may seek re-certification for the product using the procedures specified under the provisions in §3202.5.

(b) Types of violations. Actions that will be considered violations of this part include, but are not limited to, the following specific examples:

(1) Biobased content violations. The Program Manager will utilize occasional random testing of certified biobased products to compare the biobased content of the tested product with the product’s applicable minimum biobased content and the biobased content reported by the manufacturer or vendor in its approved application. Such testing will be conducted using ASTM Method D6866. USDA will provide a copy of the results of its testing to the applicable manufacturer or vendor.

(i) If USDA testing shows that the biobased content of a certified biobased product is less than its applicable minimum biobased content, then a violation of this part will have occurred.

(ii) If USDA testing shows that the biobased content is less than that reported by the manufacturer or vendor in its approved application, but is still equal to or greater than its applicable minimum biobased content(s), USDA will provide written notification to the manufacturer or vendor. The manufacturer or vendor must submit, within 90 days from receipt of USDA written notification, a new application for the lower biobased content. Failure to submit a new application within 90 days will be considered a violation of this part.

(A) The manufacturer or vendor can submit in the new application the biobased content reported to it by USDA in the written notification.

(B) Alternatively, the manufacturer or vendor may elect to retest the product in question and submit the results
of the retest in the new application. If the manufacturer or vendor elects to retest the product, it must test a sample of the current product.

(2) Certification mark violations. (i) Any usage or display of the certification mark that does not conform to the requirements specified in §3202.7.

(ii) Affixing the certification mark to any product prior to issuance of a notice of certification from USDA.

(iii) Affixing the certification mark to a certified biobased product during periods when certification has been suspended or revoked.

(3) Application violations. Knowingly providing false or misleading information in any application for certification of a biobased product constitutes a violation of this part.

(4) USDA BioPreferred Program Web site violations. Failure to provide to USDA updated information when the information for a certified biobased product becomes outdated or when new information for a certified biobased product becomes available constitutes a violation of this part.

(c) Notice of violations and associated actions. USDA will provide the applicable manufacturer or vendor or their designated representatives and any involved other entity known to USDA written notification of any violations identified by USDA. USDA will first issue a preliminary notice that apparent violations have been identified. If satisfactory resolution of the apparent violation is not reached within 30 days from receipt of the preliminary notice, USDA will issue a notice of violation. Entities who receive a notice of violation for a biobased content violation must correct the violation(s) within 90 days from receipt of the notice of violation. Entities who receive a notice of violation for other types of violations also must correct the violation(s) within 90 days from receipt of the notice of violation. If the entity receiving a notice of violation is an “other entity” (i.e., not a manufacturer, vendor, or designated representative), then USDA will pursue action according to paragraph (c)(3) of this section. Entities that receive notices of suspension or revocation may appeal such notices using the procedures specified in §3202.6.

(1) Suspension. (i) If a violation is applicable to a manufacturer, vendor, or designated representative and the applicable entity fails to make the required corrections within 90 days of receipt of a notice of violation, USDA will notify the manufacturer or vendor, as appropriate, of the continuing violation, and the USDA certification for that product will be suspended. As of the date that the manufacturer or vendor receives a notice of suspension, the manufacturer or vendor and their designated representatives must not affix the certification mark to any of that product, or associated packaging, not already labeled and must not distribute any additional products bearing the certification mark. USDA will both remove the product information from the USDA BioPreferred Program Web site and actively communicate the product suspension to buyers in a timely and overt manner.

(ii) If, within 30 days from receipt of the notice of suspension, the manufacturer or vendor whose USDA product certification has been suspended makes the required corrections and notifies USDA that the corrections have been made, the manufacturer or vendor and their designated representatives may, upon receipt of USDA approval of the corrections, resume use of the certification mark. USDA will also restore the product information to the USDA BioPreferred Program Web site.

(2) Revocation. (i) If a manufacturer or vendor whose USDA product certification has been suspended fails to make the required corrections and notify USDA of the corrections within 30 days of the date of the suspension, USDA will notify the manufacturer or vendor that the certification for that product is revoked.

(ii) As of the date that the manufacturer or vendor receives the notice revoking USDA certification, the manufacturer or vendor and their designated
representatives must not affix the certification mark to any of that product not already labeled. In addition, the manufacturer or vendor and their designated representatives are prohibited from further sales of product to which the certification mark is affixed.

(iii) If a manufacturer or vendor whose product certification has been revoked wishes to use the certification mark, the manufacturer or vendor must follow the procedures required for original certification.

(3) Other remedies. In addition to the suspension or revocation of the certification to use the label, depending on the nature of the violation, USDA may pursue suspension or debarment of the entities involved in accordance with 7 CFR part 3017. USDA further reserves the right to pursue any other remedies available by law, including any civil or criminal remedies, against any entity that violates the provisions of this part.


§ 3202.9 Recordkeeping requirements.

(a) Records. Manufacturers and vendors shall maintain records documenting compliance with this part for each product that has received certification to use the label, as specified in paragraphs (a)(1) through (a)(3) of this section.

(1) The results of all tests, and any associated calculations, performed to determine the biobased content of the product.

(2) The date the applicant receives certification from USDA, the dates of changes in formulation that affect the biobased content of certified biobased products, and the dates when the biobased content of certified biobased products was tested.

(3) Documentation of analyses performed by manufacturers to support claims of environmental or human health benefits, life cycle cost, sustainability benefits, and product performance made by the manufacturer.

(b) Record retention. For each certified biobased product, records kept under paragraph (a) of this section must be maintained for at least three years beyond the period of time when manufacturers and vendors cease using the certification mark. Records may be kept in either electronic format or hard copy format. All records kept in electronic format must be readily accessible, and/or provided by request during a USDA audit.

§ 3202.10 Oversight and monitoring.

(a) General. USDA will conduct oversight and monitoring of manufacturers, vendors, designated representatives, and other entities involved with the voluntary product labeling program to ensure compliance with this part. This oversight will include, but not be limited to, conducting facility visits of manufacturers and vendors who have certified biobased products, and of their designated representatives. Manufacturers, vendors, and their designated representatives are required to cooperate fully with all USDA audit efforts for the enforcement of the voluntary labeling program.

(b) Biobased content testing. USDA will conduct biobased content testing of certified biobased products, as described in §3202.8(b)(1) to ensure compliance with this part.

(c) Inspection of records. Manufacturers, vendors, and their designated representatives must allow Federal representatives access to the records required under §3202.9 for inspection and copying during normal Federal business hours.


PART 3203—GUIDELINES FOR THE TRANSFER OF EXCESS COMPUTERS OR OTHER TECHNICAL EQUIPMENT PURSUANT TO SECTION 14220 OF THE 2008 FARM BILL

Sec.
3203.1 Purpose.
3203.2 Eligibility.
3203.3 Definitions.
3203.4 Procedures.
3203.5 Dollar limitation.
3203.6 Restrictions.
3203.7 Title.
3203.8 Costs.
3203.9 Accountability and recordkeeping.
3203.10 Disposal.
§ 3203.1

Liabilities and losses.


Source: 77 FR 26661, May 7, 2012, unless otherwise noted.

§ 3203.1 Purpose.

This part sets forth the procedures to be utilized by USDA when transferring excess USDA computers or other technical equipment to an organization for the purposes of distribution to a city, town, or local government entity in a rural area as authorized by 7 U.S.C. 2206b.

§ 3203.2 Eligibility.

To be eligible under this part:

(a) A city, town, or local government entity must be located in a rural area as defined in 7 U.S.C. 1991(a)(13)(A).

(b) A designated organization must:
(1) Have the documented capability to refurbish and distribute excess computers or other technical equipment;
(2) Serve the interest of cities, towns, or local government entities in rural areas; and
(3) Have been designated by an official of a city, town, or local government entity in a rural area to receive excess computers or other technical equipment under this part.

§ 3203.3 Definitions.

Cannibalization means to remove serviceable parts from one item of equipment in order to install them on another item of equipment in order to repair or enhance its operability.

City, town, or local government entity in a rural area as defined in 7 U.S.C. 1991(a)(13)(A) means any area other than:

(1) A city or town that has a population of greater than 50,000 inhabitants; and
(2) Any urbanized area contiguous and adjacent to such a city or town described in paragraph (1) of this definition.

Computers or other technical equipment means central processing units, laptops, desktops, computer mouses, keyboards, monitors, related peripheral tools (e.g., printers, modems, routers, servers, multimedia projectors, multifunctional devices, external hard drives) and fax machines. This term may also include computer software where the transfer of a license is permitted.

Designated organization means an organization that has been selected by an official of a city, town, or local government entity in a rural area to provide refurbishing services on donated computer and technical equipment.

Excess means any property under the control of a USDA agency that is no longer required for that agency’s or another USDA agency’s needs, as determined by the agency head or designee.

Property Management Officer (PMO) is an eligible recipient’s designated point of contact, responsible for adherence to procedures described in this part.

Recipient means a city, town, or local government entity located in a rural area as defined in 7 U.S.C. 1991(a)(13)(A) that may receive excess computers or other technical equipment under this part.

Refurbish means to make “like new” by the process of major maintenance or minor repair of an item, either aesthetically or mechanically.

§ 3203.4 Procedures.

(a) Each agency head will designate, in writing, an authorized official to approve transfers of excess computers or other technical equipment under this part consistent with the Department’s policies on personal property management.

(b) Excess computers or other technical equipment must first be internally screened to ensure it is not needed elsewhere in the Department.

(c) To receive information concerning the availability of USDA excess computers or other technical equipment, an eligible recipient’s PMO should contact any USDA office near to its location.

(d) The USDA employee responsible for personal property, at the office contacted, will review the request for eligibility of the recipient and the availability of excess computers or other technical equipment. The USDA employee will inform the requestor of the outcome of the review (e.g., eligibility, the availability of excess computers or other technical equipment).

(e) Eligible recipients will express their interest in receiving property...
under this part by submitting a request, on letterhead paper (electronic copy is acceptable), to a USDA authorized official. All requests must originate from, and be signed by, a representative of an eligible recipient city, town, or local government entity. Requests must include:

1. Type of excess computers or other technical equipment requested (should include specifications);
2. Justification for eligibility (see §3203.2);
3. Contact information of the requestor;
4. Logistical information such as when and how the property will be picked up; and
5. Information on the recipient’s designated organization (company name, contact person and phone number) that is designated to receive and refurbish the property for the eligible recipient along with a copy of the agreement between the recipient and its designated organization.

(f) Excess computers or other technical equipment should be inspected before the property is transferred or the USDA agency should be contacted to verify the condition of the property.

(g) If the condition of the property is acceptable, the recipient or its designated organization will coordinate with the USDA contact for transfer of the property. Since the USDA agency office may have several requests for property, it is critical that the recipient or its designated organization contact USDA as soon as possible. Property will usually be allocated on a first-come, first-served basis, taking into account fair and equitable distribution of excess computers or other technical equipment to all eligible recipients.

(h) Transfers will be accomplished using the appropriate USDA property transfer form. The transfer form must contain the following statement: “Property listed on this form is being transferred pursuant to the provisions in 7 CFR Part 3203.” The form must be signed by an authorized official of the USDA agency and an official of the recipient organization.

(i) A copy of the request that transferred the property must be attached to the transfer order and kept in the USDA agency’s files.

(j) When property is transferred to a designated organization, a copy of the completed transfer document will be sent to the eligible recipient government entity for its records. Eligible recipients are responsible for following up with the designated organization they have designated for the final receipt of the property.

(k) In cases where an agency receives competing requests for excess computers or other technical equipment, to the extent permitted by law, the agency shall give full consideration to such factors as national defense requirements, emergency needs, energy conservation, preclusion of new procurement, fair and equitable distribution, transportation costs, and retention of title in the Government.

(l) Prior to transferring any property pursuant to this Act, the transferring agency must remove data from the excess computers or other technical equipment (memory or any kind of data storage device) according to accepted sanitization procedures. To the maximum extent practicable, the transferring agency must remove data using a means that does not remove, disable, destroy, or otherwise render unusable the excess computers or other technical equipment or components. It is imperative that agencies take the necessary steps to ensure that no personal computer, server, external storage device, or related electronic component is transferred that might contain sensitive or confidential information. See Departmental Manual 3575–001, Security Controls in the System Life Cycle/System Development Life Cycle, for additional guidance.

§ 3203.5 Dollar limitation.
There is no dollar limitation on excess computers or other technical equipment obtained under this part.

§ 3203.6 Restrictions.
(a) Only an authorized USDA official may approve the transfer of excess computers or other technical equipment under this part.
(b) Excess computers or other technical equipment may be transferred for
the purpose of cannibalization, provided that the requestor submits a statement clearly indicating that cannibalization of the requested property will have greater benefit than utilization of the item in its existing form. Cannibalization is a secondary use of equipment and, therefore, these requests are considered subordinate to requests for primary use.

(c) Designated organizations will only receive property for cannibalization when it has been specifically requested by the recipient and the cannibalized parts must only be used in computers or other technical equipment destined for eligible recipients.

§ 3203.7 Title.

Title of ownership to excess computers or other technical equipment transferred under this part shall automatically pass to the recipient once the transferring agency and recipient or designated organization sign the transfer form indicating that the designated organization has received the property.

§ 3203.8 Costs.

The designated organization must pay any costs associated with packaging and transportation of the property unless it has made other arrangements. The designated organization must remove property from the USDA agency’s premises within 15 calendar days after being notified that the property is available for pickup, unless otherwise coordinated with the USDA agency. If the recipient decides prior to picking up or removing the property that it no longer wants the property, it must notify the USDA agency that approved the transfer request that the property is no longer needed.

§ 3203.9 Accountability and recordkeeping.

(a) USDA requires all excess computers or other technical equipment received by an eligible recipient pursuant to this part be placed into use within one year of receipt of the property and used for at least one year thereafter. The recipient’s FMO must maintain accountable records for such property during this time period.

(b) GSA requires that all excess personal property given to non-federal recipients be reported each fiscal year. USDA agencies that transfer property under this part must report the transfers in their annual reports to OPPM and include both the recipient and organization names. OPPM will review the reports for accuracy, as well as fair and equitable distribution of the excess computers or other technical equipment, before submitting to GSA.

§ 3203.10 Disposal.

When property received under this part is no longer needed by the recipient, it must be disposed of in an environmentally sound manner that is not detrimental or dangerous to public health or safety and in accordance with all Federal, State and local laws.

§ 3203.11 Liabilities and losses.

USDA assumes no liability with respect to accidents, bodily injury, illness, or any other damages or loss related to excess computers or other technical equipment transferred under this part. The recipient/designated organization is advised to insure or otherwise protect itself and others as appropriate.