

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.

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 2206a.

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 for 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/properexc>. 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.

7 CFR Ch. XXXII (1-1-25 Edition)

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

[63 FR 57234, Oct. 27, 1998, as amended at 68 FR 75107, Dec. 30, 2003]

§ 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.

INELIGIBLE FEDERAL SUPPLY CODE GROUPS

FSC Group	Name
10	Weapons.
11	Nuclear ordinance.
13	Ammunition and explosives.
14	Guided missiles.
18	Space vehicles.

(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:

FSC Group	Name
15	Aircraft and airframe structural components.
16	Aircraft components and accessories.
17	Aircraft launching, landing and ground handling equipment.
20	Ship and marine equipment.

(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.

[63 FR 57234, Oct. 27, 1998, as amended at 68 FR 75107, Dec. 30, 2003]

§ 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 Category designation.
- 3201.6 Providing product information to Federal agencies.
- 3201.7 Determining biobased content.
- 3201.8 Determining price, environmental and health benefits, and performance.
- 3201.9 [Reserved]

Subpart B—Designated Product Categories and Intermediate Ingredients or Feedstocks

- 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.

Pt. 3201

3201.31 Greases.
3201.32 Dust suppressants.
3201.33 Carpets.
3201.34 Carpet and upholstery cleaners.
3201.35 Bathroom and spa cleaners.
3201.36 Concrete and asphalt release fluids.
3201.37 De-Icers.
3201.38 Firearm cleaners, lubricants, and protectants.
3201.39 Floor strippers.
3201.40 Laundry products.
3201.41 Metalworking fluids.
3201.42 Wood and concrete sealers.
3201.43 Chain and cable lubricants.
3201.44 Corrosion preventatives.
3201.45 Food cleaners.
3201.46 Forming lubricants.
3201.47 Gear lubricants.
3201.48 General purpose household cleaners.
3201.49 Industrial cleaners.
3201.50 Multipurpose cleaners.
3201.51 Parts wash solutions.
3201.52 Disposable tableware.
3201.53 Expanded polystyrene foam recycling products.
3201.54 Heat transfer fluids.
3201.55 Ink removers and cleaners.
3201.56 Mulch and compost materials.
3201.57 Multipurpose lubricants.
3201.58 [Reserved]
3201.59 Topical pain relief products.
3201.60 Turbine drip oils.
3201.61 Animal repellents.
3201.62 Bath products.
3201.63 Bioremediation materials.
3201.64 Compost activators and accelerators.
3201.65 Concrete and asphalt cleaners.
3201.66 Cuts, burns, and abrasions ointments.
3201.67 Dishwashing products.
3201.68 Erosion control materials.
3201.69 Floor cleaners and protectors.
3201.70 Hair care products.
3201.71 Interior paints and coatings.
3201.72 Oven and grill cleaners.
3201.73 Slide way lubricants.
3201.74 Thermal shipping containers.
3201.75 Air fresheners and deodorizers.
3201.76 Asphalt and tar removers.
3201.77 Asphalt restorers.
3201.78 Blast media.
3201.79 Candles and wax melts.
3201.80 Electronic components cleaners.
3201.81 Floor coverings (non-carpet).
3201.82 Foot care products.
3201.83 Furniture cleaners and protectors.
3201.84 Inks.
3201.85 Packing and insulating materials.
3201.86 Pneumatic equipment lubricants.
3201.87 Wood and concrete stains.
3201.88 Agricultural spray adjuvants.
3201.89 Animal cleaning products.
3201.90 Deodorants.
3201.91 Dethatcher products.
3201.92 Fuel conditioners.

7 CFR Ch. XXXII (1–1–25 Edition)

3201.93 Leather, vinyl, and rubber care products.
3201.94 Lotions and moisturizers.
3201.95 Shaving products.
3201.96 Specialty precision cleaners and solvents.
3201.97 Sun care products.
3201.98 Wastewater systems coatings.
3201.99 Water and wastewater treatment chemicals.
3201.100 Aircraft and boat cleaners.
3201.101 Automotive care products.
3201.102 Engine crankcase oil.
3201.103 Gasoline fuel additives.
3201.104 Metal cleaners and corrosion removers.
3201.105 Microbial cleaning products.
3201.106 Paint removers.
3201.107 Water turbine bearing oils.
3201.108 Intermediates—Plastic Resins.
3201.109 Intermediates—Chemicals.
3201.110 Intermediates—Paint and Coating Components.
3201.111 Intermediates—Textile Processing Materials.
3201.112 Intermediates—Foams.
3201.113 Intermediates—Fibers and Fabrics.
3201.114 Intermediates—Lubricant Components.
3201.115 Intermediates—Binders.
3201.116 Intermediates—Cleaner Components.
3201.117 Intermediates—Personal Care Product Components.
3201.118 Intermediates—Oils, Fats, and Waxes.
3201.119 Intermediates—Rubber Materials.
3201.120 Adhesives.
3201.121 Animal habitat care products.
3201.122 Cleaning tools.
3201.123 Concrete curing agents.
3201.124 Concrete repair materials.
3201.125 Durable cutlery.
3201.126 Durable tableware.
3201.127 Epoxy systems.
3201.128 Exterior paints and coatings.
3201.129 Facial care products.
3201.130 Feminine care products.
3201.131 Fire logs and fire starters.
3201.132 Folders and filing products.
3201.133 Foliar sprays.
3201.134 Gardening supplies and accessories.
3201.135 Heating fuels and wick lamps.
3201.136 Kitchenware and accessories.
3201.137 Other lubricants.
3201.138 Phase change materials.
3201.139 Playground and athletic surface materials.
3201.140 Powder coatings.
3201.141 Product packaging.
3201.142 Rugs and floor mats.
3201.143 Shopping and trash bags.
3201.144 Soil amendments.
3201.145 Surface guards, molding, and trim.
3201.146 Toys and sporting gear.
3201.147 Traffic and zone marking paints.
3201.148 Transmission fluids.

3201.149 Wall coverings.

SOURCE: 70 FR 1809, Jan. 11, 2005, unless otherwise noted.

EFFECTIVE DATE NOTE: At 89 FR 97465, Dec. 9, 2024, Part 3201 was removed and reserved, effective Jan. 8, 2025.

AUTHORITY: 7 U.S.C. 8102.

Subpart A—General

SOURCE: 70 FR 1809, Jan. 11, 2005, unless otherwise noted. Redesignated at 76 FR 53632, Aug. 29, 2011.

§ 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 establish a process for designating categories of products that are, or can be, produced with biobased components and materials and whose procurement by procuring agencies and other relevant stakeholders will carry out the objectives of section 9002 of FSRIA. The guidelines also establish a process for designating categories of intermediate ingredients and feedstocks that are, or can be, used to produce final products that will be designated and, thus, subject to Federal preferred procurement. The guidelines also establish a process for calculating the biobased content of complex assembly products, whose biobased content cannot be measured following ASTM Standard Method D6866, and for designating complex assembly product categories.

[76 FR 6321, Feb. 4, 2011, as amended at 79 FR 44654, Aug. 1, 2014]

§ 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 com-

mercial 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.

BEES. An acronym for “Building for Environmental and Economic Sustainability,” an analytic tool used to determine the environmental and health benefits and life cycle costs of products and materials, developed by the U.S. Department of Commerce National Institute of Standards and Technology.

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

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

(ii) An intermediate ingredient or feedstock.

(2) The term “biobased product” includes, with respect to forestry materials, forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging.

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.

Complex assembly. A system of distinct materials and components assembled to create a finished product with specific functional intent where some or all of the system inputs contain some amount of biobased material or feedstock.

Designated intermediate ingredient or feedstock category. A generic grouping of biobased intermediate ingredients or feedstocks identified in subpart B of this part that, when comprising more than 50 percent (or another amount as specified in subpart B of this part) of a resultant final product, qualifies the resultant final product for the procurement preference established under section 9002 of FSRIA.

Designated product category. A generic grouping of biobased products, including those final products made from designated intermediate ingredients or feedstocks, or complex assemblies identified in subpart B of this part, 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.

FCEA. The Food, Conservation and Energy Act of 2008, Pub. L. 110–246.

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 product. A product made from materials derived from the practice of

forestry or the management of growing timber. The term “forest product” includes:

- (1) Pulp, paper, paperboard, pellets, lumber, and other wood products; and
- (2) Any recycled products derived from forest materials.

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.)

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

FSRIA. The Farm Security and Rural Investment Act of 2002, Public Law 107–171, 116 Stat. 134 (7 U.S.C. 8102).

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.

Intermediate ingredient or feedstock. A material or compound made in whole or in significant part from biological products, including renewable agricultural materials (including plant, animal, and marine materials) or forestry materials that have undergone value added processing (including thermal, chemical, biological, or a significant amount of mechanical processing), excluding harvesting operations, offered for sale by a manufacturer or vendor and that is subsequently used to make a more complex compound or product.

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. 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.

Qualified biobased product. A product that is eligible for Federal preferred procurement because it meets the definition and minimum biobased content criteria for one or more designated product categories, or one or more designated intermediate ingredient or feedstock categories, as specified in subpart B of this part.

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

Relevant stakeholder. Individuals or officers of state or local government organizations, private non-profit institutions or organizations, and private businesses or consumers.

Renewable chemical. A monomer, polymer, plastic, formulated product, or chemical substance produced from renewable biomass.

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.

[70 FR 1809, Jan. 11, 2005, as amended at 71 FR 13704, Mar. 16, 2006; 71 FR 42575, July 27, 2006; 76 FR 6321, Feb. 4, 2011; 79 FR 44654, Aug. 1, 2014; 80 FR 34029, June 15, 2015]

§ 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) of FSRIA requires procuring agencies to procure qualified biobased products 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). Procuring agencies may decide not to procure such qualified biobased 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 qualified biobased products 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 products.

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

§ 3201.4

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

(2) Spacecraft systems and launch support equipment.

[71 FR 42575, July 27, 2006, as amended at 73 FR 27953, May 14, 2008; 76 FR 6321, Feb. 4, 2011; 79 FR 44655, Aug. 1, 2014]

§ 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 July 31, 2015, each Federal agency shall develop a procurement program which will assure that qualified biobased products are 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 qualified biobased products;

(ii) A promotion program to promote the preference program;

(iii) Provisions for the annual review and monitoring of the effectiveness of the procurement program; and

(iv) Provisions for reporting quantities and types of biobased products purchased by the Federal agency.

(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 on a case-by-case basis to the vendor offering a qualified biobased product composed of the highest percentage of biobased content practicable except when such products:

(A) Are not available within a reasonable time;

(B) Fail to meet performance standards set forth in the applicable specifications, or the reasonable perform-

7 CFR Ch. XXXII (1–1–25 Edition)

ance standards of the Federal agency; or

(C) Are available only at an unreasonable price.

(ii) A policy of setting minimum biobased content specifications in such a way as to assure that the required biobased content of qualified biobased products is consistent with section 9002 of FSRIA and the requirements of the guidelines in this part except when such products:

(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.

(4) No later than June 15, 2016, each Federal agency shall establish a targeted biobased-only procurement requirement under which the procuring agency shall issue a certain number of biobased-only contracts when the procuring agency is purchasing products, or purchasing services that include the use of products, that are included in a biobased product category designated by the Secretary.

(c) *Procurement specifications.* After the publication date of each designated product category and each designated intermediate ingredient or feedstock category, Federal agencies that have the responsibility for drafting or reviewing specifications for products procured by Federal agencies shall ensure within a specified time frame that their specifications require the use of qualified biobased products, consistent with the guidelines in this part. USDA will specify the allowable time frame in each designation rule. The biobased content of qualified biobased products within a designated product category or a designated intermediate ingredient or feedstock category may vary considerably from product to product

based on the mix of ingredients used in its manufacture. Likewise, the biobased content of qualified biobased products that qualify because they are made from materials within designated intermediate ingredient or feedstock categories may also vary significantly. In procuring qualified biobased products, the percentage of biobased content should be maximized, consistent with achieving the desired performance for the product.

[70 FR 1809, Jan. 11, 2005, as amended at 71 FR 42575, July 27, 2006; 76 FR 6322, Feb. 4, 2011; 79 FR 44655, Aug. 1, 2014; 80 FR 34029, June 15, 2015]

§ 3201.5 Category designation.

(a) *Procedure.* Designated product categories, designated intermediate ingredient or feedstock categories, and designated final product categories composed of qualifying intermediate ingredients or feedstocks are listed in subpart B of this part.

(1) In designating product categories, USDA will designate categories composed of generic groupings of specific products or complex assemblies and will identify the minimum biobased content for each listed category or subcategory. As product categories are designated for procurement preference, they will be added to subpart B of this part.

(2) In designating intermediate ingredient or feedstock categories, USDA will designate categories composed of generic groupings of specific intermediate ingredients or feedstocks, and will identify the minimum biobased content for each listed category or subcategory. As categories are designated for product qualification, they will be added to subpart B of this part. USDA encourages manufacturers and vendors of intermediate ingredients or feedstocks to provide USDA with information relevant to significant potential applications for intermediate ingredients or feedstocks, including estimates of typical formulation rates.

(3) During the process of designating intermediate ingredient or feedstock categories, USDA will also gather information on the various types of final products that are, or can be, made from those intermediate ingredients or feedstocks. Final products that fall within

existing designated product categories will be subject to the minimum biobased content requirements for those product categories, as specified in subpart B of this part. New product categories that are identified during the information gathering process will be listed in the FEDERAL REGISTER proposed rule for designating the intermediate ingredient or feedstock categories. A minimum biobased content for each of the final product categories will also be identified based on the amount of designated intermediate ingredients or feedstocks such products contain. Public comment will be invited on the list of potential final product categories, and the minimum biobased content for each, as well as on the intermediate ingredient and feedstock categories being proposed for designation. Public comments on the list of potential final product categories will be considered, along with any additional information gathered by USDA, and the list will be finalized. When the final rule designating the intermediate ingredient or feedstock categories, by adding them to subpart B of this part, is published in the FEDERAL REGISTER, the list of final product categories will also be added to subpart B of this part. Once these final product categories are listed in subpart B of this part, they will become eligible for the Federal procurement preference.

(b) *Considerations.* (1) In designating product categories and intermediate ingredient or feedstock categories, USDA will consider the availability of qualified biobased products and the economic and technological feasibility of using such products, including price. USDA will gather information on individual qualified biobased products within a category and extrapolate that information to the category level for consideration in designating categories.

(2) In designating product categories and intermediate ingredient or feedstock categories for the BioPreferred Program, USDA will consider as eligible only those products that use innovative approaches in the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of the biobased product. USDA will consider products that meet one or

§ 3201.6

more of the criteria in paragraphs (b)(2)(i) through (iv) of this section to be eligible for the BioPreferred Program. USDA will also consider other documentation of innovative approaches in the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of biobased products on a case-by-case basis. USDA may exclude from the BioPreferred Program any products whose manufacturers are unable to provide USDA with the documentation necessary to verify claims that innovative approaches are used in the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of their biobased products.

(i) *Product applications.* (A) The biobased product or material is used or applied in applications that differ from historical applications; or

(B) The biobased product or material is grown, harvested, manufactured, processed, sourced, or applied in other innovative ways; or

(C) The biobased content of the product or material makes its composition different from products or material used for the same historical uses or applications.

(ii) *Manufacturing and processing.* (A) The biobased product or material is manufactured or processed using renewable, biomass energy or using technology that is demonstrated to increase energy efficiency or reduce reliance on fossil-fuel based energy sources; or

(B) The biobased product or material is manufactured or processed with technologies that ensure high feedstock material recovery and use.

(iii) *Environmental Product Declaration.* The product has a current Environmental Product Declaration as defined by International Standard ISO 14025, Environmental Labels and Declarations—Type III Environmental Declarations—Principles and Procedures.

(iv) *Raw material sourcing.* (A) The raw material used in the product is sourced from a Legal Source, a Responsible Source, or a Certified Source as designated by ASTM D7612–10, Standard Practice for Categorizing Wood and Wood-Based Products According to Their Fiber Sources; or

(B) The raw material used in the product is 100% resourced or recycled (such as material obtained from building deconstruction); or

(C) The raw material used in the product is from an urban environment and is acquired as a result of activities related to a natural disaster, land clearing, right-of-way maintenance, tree health improvement, or public safety.

(c) *Exclusions.* Motor vehicle fuels, heating oil, and electricity are excluded by statute from this program.

[79 FR 44655, Aug. 1, 2014, as amended at 80 FR 34029, June 15, 2015]

§ 3201.6 Providing product information to Federal agencies.

(a) *Informational Web site.* An informational USDA Web site implementing section 9002 of FSRIA can be found at: <http://www.biopREFERRED.gov>. USDA will maintain a voluntary Web-based information site for manufacturers and vendors of qualified biobased products and Federal agencies to exchange information, as described in paragraphs (a)(1) and (2) of this section.

(1) *Product information.* The Web site will, as determined to be necessary by the Secretary based on the availability of data, provide information as to the availability, price, biobased content, performance and environmental and public health benefits of the designated product categories and designated intermediate ingredient or feedstock categories. USDA encourages manufacturers and vendors to provide product and business contact information for designated categories. 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 categories, 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, subject to the limitations specified in § 3201.8(a), with respect to product characteristics, including verification of such characteristics if requested.

(2) *National Testing Center Registry.* The Web site will include an electronic listing of recognized industry standard testing organizations that will serve biobased product manufacturers such as ASTM International, Society of Automotive Engineers, and the American Petroleum Institute. USDA encourages stakeholders to submit information on other possible testing resources to the BioPreferred program for inclusion.

(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.”

[70 FR 1809, Jan. 11, 2005, as amended at 76 FR 6322, Feb. 4, 2011; 79 FR 44656, Aug. 1, 2014; 80 FR 34030, June 15, 2015]

§ 3201.7 Determining biobased content.

(a) *Certification requirements.* For any qualified biobased product offered for preferred procurement, manufacturers and vendors must certify that the product meets the biobased content requirements for the designated product category or designated intermediate ingredient or feedstock category within which the qualified biobased 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 product category or intermediate ingredient or feedstock category, the minimum biobased content requirements in a specific category

designation refer to the organic carbon 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 Standard Method D6866, “Standard Test Methods for Determining the Biobased Content of Solid, Liquid, and Gaseous Samples Using Radiocarbon Analysis.” ASTM Standard Method D6866 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.

(1) *Biobased products, intermediate ingredients or feedstocks.* Biobased content will be based on the amount of biobased carbon in the product or material as a percent of the weight (mass) of the total organic carbon in the product or material.

(2) *Final products composed of designated intermediate ingredient or feedstock materials.* The biobased content of final products composed of designated intermediate ingredient or feedstock materials will be determined by calculating the percentage by weight (mass) that the biobased component of each designated intermediate ingredient or feedstock material represents of the total organic carbon content of the final product and summing the results (if more than one designated intermediate ingredient or feedstock is used). If the final product also contains biobased content from intermediate ingredient or feedstock material that is not designated, the percentage by weight that these biobased ingredients represent of the total organic carbon content should be included in the calculation.

(3) *Complex assemblies.* The biobased content of a complex assembly product, where the product has “n” components whose biobased and organic carbon content can be experimentally determined, will be calculated using the following equation:

$$\text{Biobased Content of Product} = \frac{\sum_{i=1}^n M_i * BCC_i * OCC_i}{\sum_{i=1}^n M_i * OCC_i}$$

Where:

M_i = mass of the n th component

BCC_i = biobased carbon content of the n th component (%)

OCC_i = organic carbon content of the n th component (%)

(d) *Products and intermediate ingredients or feedstocks with the same formulation.* In the case of products and intermediate ingredients or feedstocks that are essentially the same formulation, but marketed under more than one brand name, biobased content test data need not be brand-name specific.

[79 FR 44656, Aug. 1, 2014]

§ 3201.8 Determining price, environmental and health benefits, and performance.

(a) *Providing information on price and environmental and health benefits.* Federal agencies may not require manufacturers or vendors of qualified biobased products to provide to procuring agencies more data than would be required of other manufacturers or vendors offering products for sale to a procuring agency (aside from data confirming the biobased contents of the products) as a condition of the purchase of biobased products from the manufacturer or vendor. USDA will work with manufacturers and vendors to collect information needed to estimate the price of biobased products, complex assemblies, intermediate materials or feedstocks as part of the designation process, including application units, average unit cost, and application frequency. USDA encourages industry stakeholders to provide information on environmental and public health benefits based on industry accepted analytical approaches including, but not limited to: Material carbon footprint analysis, the ASTM D7075 standard for evaluating and reporting on environmental performance of biobased products, the International Standards Organization ISO 14040, the ASTM International life-cycle cost method (E917) and multi-attribute decision analysis (E1765), the British

Standards Institution PAS 2050, and the National Institute of Standards and Technology BEES analytical tool. USDA will make such stakeholder-supplied information available on the Bio-Preferred Web site.

(b) *Performance test information.* In assessing performance of qualified biobased products, USDA requires that procuring agencies rely on results of performance tests using applicable ASTM, ISO, Federal or military specifications, or other similarly authoritative industry test standards. Such testing must be conducted by a laboratory compliant with the requirements of the standards body. The procuring official will decide whether performance data must be brand-name specific in the case of products that are essentially of the same formulation.

(c) *Biodegradability information.* If biodegradability is claimed by the manufacturer of a qualifying biobased product as a characteristic of that product, USDA requires that, if requested by procuring agencies, these claims be verified using the appropriate, product-specific ASTM biodegradability standard(s). Such testing must be conducted by an ASTM/ISO-compliant laboratory. The procuring official will decide whether biodegradability data must be brand-name specific in the case of products that are essentially of the same formulation. ASTM biodegradability standards include:

(1) D5338 “Standard Test Method for Determining Aerobic Biodegradation of Plastic Materials Under Controlled Composting Conditions”;

(2) D5864 “Standard Test Method for Determining the Aerobic Aquatic Biodegradation of Lubricants or Their Components”;

(3) D6006 “Standard Guide for Assessing Biodegradability of Hydraulic Fluids”;

(4) D6400 “Standard Specification for Compostable Plastics” and the standards cited therein;

(5) D6139 “Standard Test Method for Determining the Aerobic Aquatic Biodegradation of Lubricants or Their Components Using the Gledhill Shake Flask”;

(6) D6868 “Standard Specification for Biodegradable Plastics Used as Coatings on Paper and Other Compostable Substrates”; and

(7) D7081 “Standard Specification for Non-Floating Biodegradable Plastics in the Marine Environment.”

[70 FR 1809, Jan. 11, 2005, as amended at 71 FR 13704, Mar. 16, 2006; 71 FR 42575, July 27, 2006; 76 FR 6322, Feb. 4, 2011; 79 FR 44657, Aug. 1, 2014]

§ 3201.9 [Reserved]

Subpart B—Designated Product Categories and Intermediate Ingredients or Feedstocks

SOURCE: 71 FR 13705, Mar. 16, 2006, unless otherwise noted. Redesignated at 76 FR 53632, Aug. 29, 2011.

§ 3201.10 Mobile equipment hydraulic fluids.

(a) *Definition.* Hydraulic fluids formulated for general use in non-stationary equipment, such as tractors, end 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: Re-refined Lubricating Oils. USDA is re-

questing 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 fuel additive does not mean neat biodiesel when used as a fuel or blended biodiesel fuel (e.g., B20).

(b) *Minimum biobased content.* The minimum biobased content is 90 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 diesel fuel additives. 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 diesel fuel additives.

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

§ 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.

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

§ 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 qualifying 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.

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

§ 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.

[73 FR 27953, May 14, 2008]

§ 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

§ 3201.18

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/prod->

7 CFR Ch. XXXII (1–1–25 Edition)

[ucts.htm](#) and then clicking on the appropriate product name.

[73 FR 27953, May 14, 2008]

§ 3201.18 Hand cleaners and sanitizers.

(a) *Definitions*—(1) *Hand cleaners.* Products formulated for personal care use in removing a variety of different soils, greases, and similar substances from human hands with or without the use of water.

(2) *Hand sanitizers.* Products formulated for personal care use in removing bacteria from human hands with or without the use of water. Personal care products that are formulated for use in removing a variety of different soils, greases and similar substances and bacteria from human hands with or without the use of water are classified as hand sanitizers for the purposes of this rule.

(b) *Minimum biobased content.* The minimum biobased content requirement for all hand cleaners and/or sanitizers 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) Hand cleaners—64 percent.

(2) Hand sanitizers (including hand cleaners and sanitizers)—73 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 hand cleaners and sanitizers. 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 hand cleaners and sanitizers.

[73 FR 27953, May 14, 2008]

§ 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 pref-

erence 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 and 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]

§ 3201.20 Fluid-filled transformers.

(a) *Definition*—(1) *Synthetic ester-based fluid-filled transformers*. Electric power transformers that are designed to utilize a synthetic ester-based dielectric (non-conducting) fluid to provide insulating and cooling properties.

(2) *Vegetable oil-based fluid-filled transformers*. Electric power transformers that are designed to utilize a vegetable oil-based dielectric (non-conducting) fluid to provide insulating and cooling properties.

(b) *Minimum biobased content*. The minimum biobased content requirement for all fluid-filled transformers 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) Synthetic ester-based fluid-filled transformers—66 percent.

(2) Vegetable oil-based fluid-filled transformers—95 percent.

(c) *Preference compliance date*—(1) *Synthetic ester-based fluid-filled transformers*. Determination of the compliance date for synthetic ester-based fluid-filled transformers is deferred until USDA identifies two or more manufacturers of synthetic ester-based fluid-filled transformers. 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 synthetic ester-based fluid-filled transformers.

(2) *Vegetable oil-based fluid-filled transformers*. No later than May 14, 2009, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased vegetable oil-based fluid-filled transformers. 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 vegetable oil-based fluid-filled transformers.

[73 FR 27953, May 14, 2008]

§ 3201.21 Disposable containers.

(a) *Definition*. Products designed to be used for temporary storage or trans-

portation 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 product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) *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 has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated paper and paper products and which 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 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 Bio-Preferred 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 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

§ 3201.24

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 Bio-Preferred 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

7 CFR Ch. XXXII (1–1–25 Edition)

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 qualifying graffiti and grease 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 graffiti and grease removers.

[73 FR 27953, May 14, 2008]

§ 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 Bio-Preferred 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 247.16. 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.

§ 3201.29

(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]

7 CFR Ch. XXXII (1–1–25 Edition)

§ 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]

§ 3201.30 Glass cleaners.

(a) *Definition.* Cleaning products designed specifically for use in cleaning glass surfaces, such as windows, mirrors, car windows, and computer monitors.

(b) *Minimum biobased content.* The preferred procurement product must have a 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. If the finished product is to be diluted before use, the biobased content of the cleaner 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 qualifying biobased glass 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 glass cleaners.

[73 FR 27973, May 14, 2008]

§ 3201.31 Greases.

(a) *Definitions.* (1) Lubricants composed of oils thickened to a semisolid

or solid consistency using soaps, polymers or other solids, or other thickeners.

(2) Greases for which preferred procurement applies are:

(i) *Food grade greases.* Lubricants that are designed for use on food-processing equipment as a protective anti-rust film, as a release agent on gaskets or seals of tank closures, or on machine parts and equipment in locations in which there is exposure of the lubricated part to food.

(ii) *Multipurpose greases.* Lubricants that are designed for general use.

(iii) *Rail track greases.* Lubricants that are designed for use on railroad tracks or heavy crane tracks.

(iv) *Truck greases.* Lubricants that are designed for use on the fifth wheel of tractor trailer trucks onto which the semi-trailer rests and pivots.

(v) *Greases not elsewhere specified.* Lubricants that meet the general definition of greases as defined in paragraph (a)(1) of this section, but are not otherwise covered by paragraphs (a)(2)(i) through (iv) of this section.

(b) *Minimum biobased content.* The minimum biobased content for all greases 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) Food grade grease—42 percent.

(2) Multipurpose grease—72 percent.

(3) Rail track grease—30 percent.

(4) Truck grease—71 percent.

(5) Greases not elsewhere specified—75 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 greases. 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 greases.

[73 FR 27973, May 14, 2008]

§ 3201.32 Dust suppressants.

(a) *Definition.* Products formulated to reduce or eliminate the spread of dust associated with gravel roads, dirt park-

ing 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.

(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 dust suppressants. 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.

[73 FR 27973, May 14, 2008]

§ 3201.33 Carpets.

(a) *Definition.* Floor coverings composed of woven, tufted, or knitted fiber and a backing system.

(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 carpet. 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 carpet.

(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: Carpets (polyester). USDA is requesting that manufacturers of these qualifying biobased

§ 3201.34

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 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]

§ 3201.34 Carpet and upholstery cleaners.

(a) *Definition.* (1) Cleaning products formulated specifically for use in cleaning carpets and upholstery, through a dry or wet process, found in locations such as houses, cars, and workplaces.

(2) Carpet and upholstery cleaners for which preferred procurement applies are:

(i) *General purpose cleaners.* Carpet and upholstery cleaners formulated for use in cleaning large areas such as the carpet in an entire room or the upholstery on an entire piece of furniture.

(ii) *Spot removers.* Carpet and upholstery cleaners formulated for use in removing spots or stains in a small confined area.

(b) *Minimum biobased content.* The minimum biobased content for all carpet and upholstery cleaners shall be based on the amount of qualifying

7 CFR Ch. XXXII (1–1–25 Edition)

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) General purpose cleaners—54 percent.

(2) Spot removers—7 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 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 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 De-Icers.

(a) *Definition.* Chemical products (e.g., salts, 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, by lowering the freezing point of water.

(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 dates.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased de-icers. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased de-icers.

[73 FR 27994, May 14, 2008, as amended at 84 FR 32020, July 5, 2019]

§ 3201.38 Firearm cleaners, lubricants, and protectants.

(a) *Definition.* Products that are designed to care for firearms by cleaning, lubricating, protecting, or any combination thereof. Examples include products that are designed for use in firearms to reduce the friction and wear between the moving parts of a firearm, to keep the weapon clean, and/or to prevent the formation of deposits that could cause the weapon to jam.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 32 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance dates.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased firearm cleaners, lubricants, and protectants. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased firearm cleaners, lubricants, and protectants.

[84 FR 32020, July 5, 2019]

§ 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

§ 3201.40

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.

(iii) *Dryer sheets.* These are small sheets that are added to laundry in clothes dryers to eliminate static cling, soften fabrics, or otherwise improve the characteristics of the fabric.

(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) Pretreatment/spot removers—46 percent.

(2) General purpose laundry products—34 percent.

(3) Dryer sheets—90 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 laundry products specified in paragraphs (a)(2)(i) and (ii) 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 laundry products.

(2) No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for those qualifying biobased laundry products specified in para-

7 CFR Ch. XXXII (1–1–25 Edition)

graph (a)(2)(iii) of this section. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased laundry products.

[73 FR 27994, May 14, 2008, as amended at 84 FR 32020, July 5, 2019]

§ 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.

(3) *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

7 CFR Ch. XXXII (1–1–25 Edition)

§ 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 corrosion preventatives. 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 corrosion preventatives.

[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 Bio-Preferred 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]

§ 3201.48 General purpose household cleaners.

(a) *Definition.* Products designed to clean multiple common household surfaces. This designated item does not include products that are formulated for use as disinfectants. Task-specific cleaning products, such as spot and stain removers, upholstery cleaners, bathroom cleaners, glass cleaners, etc., are not included in this item.

(b) *Minimum biobased content.* The preferred procurement product must have a minimum biobased content of at least 39 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 general purpose household 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 general purpose household cleaners.

[74 FR 55093, Oct. 27, 2009]

§ 3201.49 Industrial cleaners.

(a) *Definition.* Products used to remove contaminants, such as adhesives, inks, paint, dirt, soil, and grease, from parts, products, tools, machinery, equipment, vessels, floors, walls, and other production-related work areas. The cleaning products within this item are usually solvents, but may take other forms. They may be used in either straight solution or diluted with water in pressure washers, or in hand wiping applications in industrial or manufacturing settings, such as inside vessels. Task-specific cleaners used in industrial settings, such as parts wash solutions, are not included in this definition.

(b) *Minimum biobased content.* The 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 October 27, 2010, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased industrial 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 industrial cleaners.

[74 FR 55093, Oct. 27, 2009]

§ 3201.50 Multipurpose cleaners.

(a) *Definition.* Products used to clean dirt, grease, and grime from a variety of items in both industrial and domestic settings. This designated item does not include products that are formulated for use as disinfectants.

(b) *Minimum biobased content.* The preferred procurement product must have a minimum biobased content of at least 56 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of

§ 3201.51

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 multipurpose 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 multipurpose cleaners.

[74 FR 55093, Oct. 27, 2009]

§ 3201.51 Parts wash solutions.

(a) *Definition.* Products that are designed to clean parts in manual or automatic cleaning systems. Such systems include, but are not limited to, soak vats and tanks, cabinet washers, and ultrasonic cleaners.

(b) *Minimum biobased content.* The preferred procurement product must have a minimum biobased content of at least 65 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 parts wash solutions. 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 parts wash solutions.

[74 FR 55093, Oct. 27, 2009]

§ 3201.52 Disposable tableware.

(a) *Definition.* Products made from, or coated with, plastic resins and used in dining, such as drink ware and dishware, including but not limited to cups, plates, bowls, and serving platters, and that are designed for one-time use. This item does not include disposable cutlery, which is a separate item.

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

7 CFR Ch. XXXII (1–1–25 Edition)

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 disposable tableware. 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 tableware.

[75 FR 63701, Oct. 18, 2010]

§ 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.

(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 EPS foam recycling 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 EPS foam recycling products.

[75 FR 63701, Oct. 18, 2010]

§ 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 1976, 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

7 CFR Ch. XXXII (1–1–25 Edition)

§ 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 semi-solid 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 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.

[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,

§ 3201.65

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

7 CFR Ch. XXXII (1–1–25 Edition)

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.

(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 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]

§ 3201.68 Erosion control materials.

(a) *Definition.* Woven or non-woven fiber materials manufactured for use on construction, demolition, or other sites to prevent wind or water erosion of loose earth surfaces, which may be combined with seed and/or fertilizer to promote growth.

(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 erosion control 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 erosion control materials.

[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.

(2) Hair care products for which Federal preferred procurement applies are:

(i) *Shampoos.* These are products whose primary purpose is cleaning hair. Products that contain both shampoos and conditioners are included in this subcategory because the primary purpose of these products is cleaning the hair.

(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.

[76 FR 43817, July 22, 2011]

§ 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

§ 3201.72

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

7 CFR Ch. XXXII (1–1–25 Edition)

found in the Comprehensive Procurement Guideline, 40 CFR 247.12.

[76 FR 43817, July 22, 2011]

§ 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.

[76 FR 43817, July 22, 2011]

§ 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

§ 3201.77

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

7 CFR Ch. XXXII (1–1–25 Edition)

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

§ 3201.83

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, pa-

7 CFR Ch. XXXII (1–1–25 Edition)

perboard, 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 photocopying machines 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 photocopying machines 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.

(6) *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 prod-

ucts 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.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 39 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 wood and concrete stains. 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

§ 3201.88

the use of biobased wood and concrete stains.

[77 FR 20289, Apr. 4, 2012]

§ 3201.88 Agricultural spray adjuvants.

(a) *Definition.* Products mixed in the spray tank with the herbicide, pesticide, or fertilizer formulas that will improve the efficiency and the effectiveness of the chemicals, including sticking agents, wetting agents, etc.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 50 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 agricultural spray adjuvants. 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 agricultural spray adjuvants.

[77 FR 69386, Nov. 19, 2012]

§ 3201.89 Animal cleaning products.

(a) *Definition.* Products designed to clean, condition, or remove substances from animal hair or other parts of an animal.

(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.

(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 animal 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

7 CFR Ch. XXXII (1–1–25 Edition)

the use of biobased animal cleaning products.

[77 FR 69386, Nov. 19, 2012]

§ 3201.90 Deodorants.

(a) *Definition.* Products that are designed for inhibiting or masking perspiration and other body odors and that are often combined with an anti-perspirant.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 73 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 deodorants. 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 deodorants.

[77 FR 69386, Nov. 19, 2012]

§ 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 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 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.

(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 shaving 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 shaving products.

[77 FR 69386, Nov. 19, 2012]

§ 3201.96

§ 3201.96 Specialty precision cleaners and solvents.

(a) *Definition.* Cleaners and solvents used in specialty applications. These materials may be used in neat solution, diluted with water, or in hand wiping applications.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 56 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 specialty precision cleaners and solvents. 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 specialty precision cleaners and solvents.

[77 FR 69386, Nov. 19, 2012]

§ 3201.97 Sun care products.

(a) *Definition.* Products including sunscreens, sun blocks, and suntan lotions that are topical products that absorb or reflect the sun's ultraviolet radiation to protect the skin.

(b) *Minimum biobased content.* The Federal 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 November 19, 2013, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased sun 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 sun care products.

[77 FR 69386, Nov. 19, 2012]

7 CFR Ch. XXXII (1–1–25 Edition)

§ 3201.98 Wastewater systems coatings.

(a) *Definition.* Coatings that protect wastewater containment tanks, liners, roofing, flooring, joint caulking, manholes and related structures from corrosion. Protective coatings may cover the entire system or be used to fill cracks in systems.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 47 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 wastewater systems coatings. 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 wastewater systems coatings.

[77 FR 69386, Nov. 19, 2012]

§ 3201.99 Water and wastewater treatment chemicals.

(a) *Definition.* Chemicals that are specifically formulated to purify raw water or to treat and purify wastewater from residential, commercial, industrial, and agricultural systems. Examples include coagulants, flocculants, neutralizing agents, activated carbon, or defoamers. This category excludes microbial cleaning products.

(b) *Minimum biobased content.* The Federal 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 total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased water and wastewater treatment chemicals. By that date, Federal agencies responsible for drafting or reviewing specifications for

products to be procured shall ensure that the relevant specifications require the use of biobased water and wastewater treatment chemicals.

[84 FR 32021, July 5, 2019]

§ 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 residue, 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 residue, 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 residue, 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]

§ 3201.101 Automotive care products.

(a) *Definition.* Products such as waxes, buffing compounds, polishes, degreasers, soaps, wheel and tire cleaners, leather care products, interior cleaners, and fragrances that are for-

mulated for cleaning and protecting automotive surfaces.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 75 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 automotive 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 automotive care products.

[78 FR 34872, June 11, 2013]

§ 3201.102 Engine crankcase oils.

(a) *Definition.* Lubricating products formulated to provide lubrication and wear protection for four-cycle gasoline or diesel engines.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 25 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 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

§ 3201.103

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 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.

[78 FR 34872, June 11, 2013]

§ 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.

(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 gasoline fuel additives. 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 gasoline fuel additives.

[78 FR 34872, June 11, 2013]

7 CFR Ch. XXXII (1–1–25 Edition)

§ 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. 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 minimum biobased content for all microbial cleaning 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) *Drain maintenance products*—45 percent.

(2) *Wastewater maintenance products*—44 percent.

(3) *General cleaners*—50 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 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 that the relevant specifications require the use of biobased water turbine bearing oils.

[78 FR 34872, June 11, 2013]

§ 3201.108 Intermediates—Plastic Resins.

(a) *Definition.* Intermediates—Plastic Resins are materials that are typically viscous liquids with the ability to harden permanently and may exist in liquid or solid (powder or pellets) states. Intermediates—Plastic Resins may be used in a variety of finished products neat, consisting of a single resin or polymer, or a homogeneous blend of two or more neat resins or polymers, or a composite, containing two or more distinct materials such as

§ 3201.109

fiber-reinforced resins. Additionally, Intermediates—Plastic Resins may be used in finished products as additives such as plasticizers, pigments, thermal stability agents, or impact modifiers.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 22 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 10, 2019, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased Intermediates—Plastic Resins. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased Intermediates—Plastic Resins.

[83 FR 31848, July 10, 2018]

§ 3201.109 Intermediates—Chemicals.

(a) *Definition.* Intermediates—Chemicals are those used as reactants for organic synthesis reactions rather than for their functional properties in a chemical mixture; those used as building block chemicals and secondary chemicals such as glycerol, succinic acid, propanediol, and monomers such as lactic acid and propylene; those used for specific functional properties during manufacturing of other products such as pH regulators, flocculants, precipitants, neutralizing agents, emulsifiers, viscosity reducers, rheology modifiers, adhesion agents, detergents, wetting agents, foaming agents, or dispersants; those that are added to end-use products for their specific functional properties including polyols, polymers, and solvents for thinning and drying applications but excluding solvents used for cleaning; and those used for dyes, pigments, and scents including flavorings for non-food products such as lip balm.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 22 percent, which shall be based on the amount of qualifying

7 CFR Ch. XXXII (1–1–25 Edition)

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 10, 2019, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased Intermediates—Chemicals. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased Intermediates—Chemicals.

[83 FR 31848, July 10, 2018]

§ 3201.110 Intermediates—Paint and Coating Components.

(a) *Definition.* Intermediates—Paint and Coating Components are ingredients used to formulate finished waterborne or solvent borne paint and coating products. Examples of Intermediates—Paint and Coating Components include binders, pigments, thickeners, curing agents, modifiers, humectants, open time additives, alkyd latex resins, polymers, polyols, reactive oligomers, or reactive diluents.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 22 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 10, 2019, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased Intermediates—Paint and Coating Components. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased Intermediates—Paint and Coating Components.

[83 FR 31848, July 10, 2018]

§ 3201.111 Intermediates—Textile Processing Materials.

(a) *Definition.* Intermediates—Textile Processing Materials are used to treat

or finish textiles for the purposes of altering textile characteristics such as color, fading, wrinkle resistance, texture, or moisture management.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 22 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 10, 2019, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased Intermediates—Textile Processing Materials. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased Intermediates—Textile Processing Materials.

[83 FR 31848, July 10, 2018]

§ 3201.112 Intermediates—Foams.

(a) *Definition.* Intermediates—Foams are dry polymer foams used for non-construction purposes, such as cushions for furniture.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 22 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 10, 2019, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased Intermediates—Foams. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased Intermediates—Foams.

[83 FR 31848, July 10, 2018]

§ 3201.113 Intermediates—Fibers and Fabrics.

(a) *Definition.* Intermediates—Fibers and Fabrics encompasses plant and ani-

mal fibers, fibers made from plant-derived polymers that are not yet formed into more complex products such as carpet or fabrics, fabrics made from natural fibers, fabrics made from synthetic fibers, or fabrics made from a blend of the two. These materials are used to manufacture finished products such as clothing, upholstery, or drapes.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 25 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 10, 2019, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased Intermediates—Fibers and Fabrics. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased Intermediates—Fibers and Fabrics.

[83 FR 31848, July 10, 2018]

§ 3201.114 Intermediates—Lubricant Components.

(a) *Definition.* Intermediates—Lubricant Components are ingredients that used specifically to formulate finished lubricant products. Examples of Intermediates—Lubricant Components include base oils, base fluids, additives, or friction modifiers.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum 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 July 10, 2019, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased Intermediates—Lubricant Components. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure

§ 3201.115

that the relevant specifications require the use of biobased Intermediates—Lubricant Components.

[83 FR 31848, July 10, 2018]

§ 3201.115 Intermediates—Binders.

(a) *Definition.* Intermediates—Binders are materials used to provide cohesiveness throughout an entire finished product. Binders are generally polymers or polymer precursors (such as epoxies) and include the polymeric materials used to formulate coatings, adhesives, sealants, and elastomers. The product category does not include adhesives and glues that are finished products used to attach the surfaces of two or more distinct and separate components to one another.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 47 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 10, 2019, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased Intermediates—Binders. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased Intermediates—Binders.

[83 FR 31848, July 10, 2018]

§ 3201.116 Intermediates—Cleaner Components.

(a) *Definition.* Intermediates—Cleaner Components are intermediate ingredients used specifically for formulating finished cleaning products. Examples of Intermediates—Cleaner Components include chelating agents, surfactants, hydrotropes, fatty acids, or solvents.

(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

7 CFR Ch. XXXII (1–1–25 Edition)

total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 10, 2019, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased Intermediates—Cleaner Components. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased Intermediates—Cleaner Components.

[83 FR 31848, July 10, 2018]

§ 3201.117 Intermediates—Personal Care Product Components.

(a) *Definition.* Intermediates—Personal Care Product Components are ingredients used to formulate finished personal care products. Examples of Intermediates—Personal Care Product Components include surfactants, oils, humectants, emollients, or emulsifiers.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 62 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 10, 2019, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased Intermediates—Personal Care Product Components. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased Intermediates—Personal Care Product Components.

[83 FR 31848, July 10, 2018]

§ 3201.118 Intermediates—Oils, Fats, and Waxes.

(a) *Definition.* Intermediates—Oils, Fats, and Waxes include raw or modified fats and oils derived from plants or animals.

(b) *Minimum biobased content.* The Federal preferred procurement product

must have a minimum biobased content of at least 65 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 10, 2019, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased Intermediates—Oils, Fats, and Waxes. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased Intermediates—Oils, Fats, and Waxes.

[83 FR 31848, July 10, 2018]

§ 3201.119 Intermediates—Rubber Materials.

(a) *Definition.* Intermediates—Rubber Materials are used in finished products such as rubber gloves, vehicle tires, footwear, sports apparel and equipment, bedding and pillow foams, tubing, catheters, gasketing, or cosmetic adhesives and bases.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 96 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 10, 2019, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased Intermediates—Rubber Materials. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased Intermediates—Rubber Materials.

[83 FR 31848, July 10, 2018]

§ 3201.120 Adhesives.

(a) *Definition.* Adhesives are compounds that temporarily or permanently bind two item surfaces together. These products include glues and

sticky tapes used in construction, household, flooring, and industrial settings. This category excludes epoxy systems.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 24 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased adhesives. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased adhesives.

[84 FR 32021, July 5, 2019]

§ 3201.121 Animal habitat care products.

(a) *Definition.* Animal habitat care products are products that are intended to improve the quality of animal habitats such as cleaning supplies, sanitizers, feeders, and products that control, mask, or suppress pet odors. This category excludes animal bedding or litter products and animal cleaning products.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 22 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased animal habitat care products. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased animal habitat care products.

[84 FR 32021, July 5, 2019]

§ 3201.122

7 CFR Ch. XXXII (1–1–25 Edition)

§ 3201.122 Cleaning tools.

(a) *Definition.* Cleaning tools are objects that are used to clean a variety of surfaces or items and can be used multiple times. This category includes tools such as brushes, scrapers, abrasive pads, and gloves that are used for cleaning. The expendable materials used in cleaning, such as glass cleaners, single-use wipes, and all-purpose cleaners, are excluded from this category, as these materials better fit in other categories.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 22 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased cleaning tools. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased cleaning tools.

[84 FR 32021, July 5, 2019]

§ 3201.123 Concrete curing agents.

(a) *Definition.* Concrete curing agents are products that are designed to enhance and control the curing process of concrete.

(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 total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased concrete curing agents. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased concrete curing agents.

(d) *Determining overlap with a designated product category in the EPA's Comprehensive Procurement Guideline (CPG) program.* Qualifying products within this product category may overlap with the EPA's CPG-designated recovered content product category of Construction Products: Cement and Concrete. USDA is requesting that manufacturers of these qualifying biobased products provide information on the BioPreferred Program's website about the intended uses of the product, information on whether 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 a qualifying biobased product overlaps with the EPA's CPG-designated product category of Construction Products: Cement and Concrete and which product should be afforded the preference in purchasing.

NOTE 1 TO PARAGRAPH (d): Concrete curing agents within this designated product category can compete with similar concrete curing agents with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency CPG-designated Construction Products: Cement and Concrete 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 247.12.

[84 FR 32021, July 5, 2019]

§ 3201.124 Concrete repair materials.

(a) *Definition.* (1) Products that are designed to repair cracks and other damage to concrete.

(2) Concrete repair materials for which preferred procurement applies are:

(i) *Concrete repair materials—concrete leveling.* Concrete repair materials—concrete leveling are products that are designed to repair cracks and other damage to concrete by raising or stabilizing concrete.

(ii) *Concrete repair materials—concrete patching.* Concrete repair materials—concrete patching are products that are designed to repair cracks and other damage to concrete by filling and patching the concrete.

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

(1) Concrete repair materials—concrete leveling—23 percent.

(2) Concrete repair materials—concrete patching—69 percent.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased concrete repair materials. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased concrete repair materials.

(d) *Determining overlap with a designated product category in the EPA's CPG program.* Qualifying products within this product category may overlap with the EPA's CPG-designated recovered content product category of Construction Products: Cement and Concrete. USDA is requesting that manufacturers of these qualifying biobased products provide information on the BioPreferred Program's website about the intended uses of the product, information on whether 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 a qualifying biobased product overlaps with the EPA's CPG-designated product category of Construction Products: Cement and Concrete and which product should be afforded the preference in purchasing.

NOTE 1 TO PARAGRAPH (d): Concrete repair materials within this designated product category can compete with similar concrete repair materials with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency CPG-designated Construction Products: Cement and Concrete 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 247.12.

[84 FR 32021, July 5, 2019]

§ 3201.125 Durable cutlery.

(a) *Definition.* Durable cutlery consists of dining utensils that are designed to be used multiple times.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 28 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased durable cutlery. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased durable cutlery.

[84 FR 32021, July 5, 2019]

§ 3201.126 Durable tableware.

(a) *Definition.* Durable tableware consists of multiple-use drinkware and dishware including cups, plates, bowls, and serving platters.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 28 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased durable tableware. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased durable tableware.

[84 FR 32021, July 5, 2019]

§ 3201.127 Epoxy systems.

(a) *Definition.* Epoxy systems are two-component systems that are epoxy-

§ 3201.128

based and are used as coatings, adhesives, surface fillers, and composite matrices.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 23 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased epoxy systems. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased epoxy systems.

[84 FR 32021, July 5, 2019]

§ 3201.128 Exterior paints and coatings.

(a) *Definition.* Exterior paints and coatings are pigmented liquid products that typically contain pigments to add color and are formulated for use on outdoor surfaces. When these products dry, they typically form a protective layer and provide a coat of color to the applied surface. This category includes paint and primers but excludes wood and concrete sealers and stains and specialty coatings such as roof coatings, wastewater system coatings, and water tank coatings.

(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 total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased exterior paints and coatings. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased exterior paints and coatings.

7 CFR Ch. XXXII (1–1–25 Edition)

(d) *Determining overlap with a designated product category in the EPA's CPG program.* Qualifying products within this product category may overlap with the EPA's CPG-designated recovered content product category of Construction Products: Consolidated and Reprocessed Latex Paint for Specified Uses. USDA is requesting that manufacturers of these qualifying biobased products provide information on the BioPreferred Program's website about the intended uses of the product, information on whether 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 a qualifying biobased product overlaps with the EPA's CPG-designated product category of Construction Products: Consolidated and Reprocessed Latex Paint for Specified Uses and which product should be afforded the preference in purchasing.

NOTE 1 TO PARAGRAPH (d): Exterior paints and coatings within this designated product category can compete with similar exterior paints and coatings with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency CPG-designated Construction Products: Consolidated and Reprocessed Latex Paint for Specified Uses 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 247.12.

[84 FR 32021, July 5, 2019]

§ 3201.129 Facial care products.

(a) *Definition.* Facial care products are cleansers, moisturizers, and treatments specifically designed for the face. These products are used to care for the condition of the face by supporting skin integrity, enhancing its appearance, and relieving skin conditions. This category does not include tools and applicators, such as those used to apply facial care products.

(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 total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased facial care products. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased facial care products.

[84 FR 32021, July 5, 2019]

§ 3201.130 Feminine care products.

(a) *Definition.* Feminine care products are products that are designed for maintaining feminine health and hygiene. This category includes sanitary napkins, panty liners, and tampons.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 65 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased feminine care products. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased feminine care products.

[84 FR 32021, July 5, 2019]

§ 3201.131 Fire logs and fire starters.

(a) *Definition.* Fire logs and fire starters are devices or substances that are used to start a fire intended for uses such as comfort heat, decoration, or cooking. Examples include fire logs and lighter fluid. This category excludes heating fuels for chafing dishes, beverage urns, warming boxes, and wick lamps.

(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 total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased fire logs and fire starters. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased fire logs and fire starters.

[84 FR 32021, July 5, 2019]

§ 3201.132 Folders and filing products.

(a) *Definition.* Folders and filing products are products that are designed to hold together items such as loose sheets of paper, documents, and photographs with clasps, fasteners, rings, or folders. This category includes binders, folders, and document covers.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 56 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased folders and filing products. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased folders and filing products.

(d) *Determining overlap with a designated product category in the EPA's CPG program.* Qualifying products within this product category may overlap with the EPA's CPG-designated recovered content product categories of Non-Paper Office Products: Binders, Clipboards, File Folders, Clip Portfolios, and Presentation Folders and Non-Paper Office Products: Plastic Envelopes. USDA is requesting that manufacturers of these qualifying biobased products provide information on the BioPreferred Program's website about

§ 3201.133

the intended uses of the product, information on whether 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 a qualifying biobased product overlaps with the EPA's CPG-designated product categories of Non-Paper Office Products: Binders, Clipboards, File Folders, Clip Portfolios, and Presentation Folders and Non-Paper Office Products: Plastic Envelopes and which product should be afforded the preference in purchasing.

NOTE 1 TO PARAGRAPH (d): Biobased folders and filing products within this designated product category can compete with similar folders and filing products with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency CPG-designated Non-Paper Office Products: Binders, Clipboards, File Folders, Clip Portfolios, and Presentation Folders and Non-Paper Office Products: Plastic Envelopes 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 247.16.

[84 FR 32021, July 5, 2019]

§ 3201.133 Foliar sprays.

(a) *Definition.* Foliar sprays are products that are applied to the leaves of plants and provide plants with nutrients. These products may also repair plants from previous pest attacks. Examples include liquid fertilizers, foliar feeds, and micronutrient solutions.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 50 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased foliar sprays. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications

7 CFR Ch. XXXII (1–1–25 Edition)

require the use of biobased foliar sprays.

[84 FR 32021, July 5, 2019]

§ 3201.134 Gardening supplies and accessories.

(a) *Definition.* Gardening supplies and accessories are products that are used to grow plants in outdoor and indoor settings. Examples include seedling starter trays, nonwoven mats or substrates for hydroponics, and flower or plant pots. This category excludes compost activators and accelerators; erosion control materials; fertilizers, including soil inoculants; foliar sprays; mulch and compost materials; and soil amendments.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 43 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased gardening supplies and accessories. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased gardening supplies and accessories.

[84 FR 32021, July 5, 2019]

§ 3201.135 Heating fuels and wick lamps.

(a) *Definition.* Heating fuels and wick lamps are products that create controlled sources of heat or sustain controlled open flames that are used for warming food, portable stoves, beverage urns, or fondue pots. This category also includes wick lamps and their fuels that create controlled sources of light indoors and in camping or emergency preparedness situations. This category excludes fire logs and fire starters and candles and wax melts.

(b) *Minimum biobased content.* The Federal preferred procurement product

must have a minimum biobased content of at least 75 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased heating fuels and wick lamps. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased heating fuels and wick lamps.

[84 FR 32021, July 5, 2019]

§ 3201.136 Kitchenware and accessories.

(a) *Definition.* Kitchenware and accessories are products designed for food or drink preparation. These products include cookware and bakeware, such as baking cups, cookie sheets, parchment paper, and roasting bags or pans; cooking utensils, such as brushes, tongs, spatulas, and ladles; and food preparation items, such as cutting boards, measuring cups, mixing bowls, coffee filters, food preparation gloves, and sandwich and snack bags. These products exclude kitchen appliances, such as toasters, blenders, and coffee makers; disposable tableware; disposable cutlery; disposable containers; durable tableware; durable cutlery; and cleaning tools.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 22 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased kitchenware and accessories. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the rel-

evant specifications require the use of biobased kitchenware and accessories.

[84 FR 32021, July 5, 2019]

§ 3201.137 Other lubricants.

(a) *Definition.* Other lubricants are lubricant products that do not fit into any of the BioPreferred Program's specific lubricant categories. This category includes lubricants that are formulated for specialized uses. Examples of other lubricants include lubricants used for sporting or exercise gear and equipment, musical instruments, and specialized equipment such as tree shakers. This category excludes lubricants that are covered by the specific lubricant categories such as chain and cable lubricants, firearm lubricants, forming lubricants, gear lubricants, multi-purpose lubricants, penetrating lubricants, pneumatic equipment lubricants, and slide way lubricants.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 39 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased other lubricants. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased other lubricants.

(d) *Determining overlap with a designated product category in the EPA's CPG program.* Qualifying products within this product category may overlap with the EPA's CPG-designated recovered content product category of Vehicular Products: Re-Refined Lubricating Oil. USDA is requesting that manufacturers of these qualifying biobased products provide information on the BioPreferred Program's website about the intended uses of the product, information on whether the product contains any recovered material, in addition to biobased ingredients, and performance standards against which the

§ 3201.138

product has been tested. This information will assist Federal agencies in determining whether a qualifying biobased product overlaps with the EPA's CPG-designated product category of Vehicular Products: Re-Refined Lubricating Oil and which product should be afforded the preference in purchasing.

NOTE 1 TO PARAGRAPH (d): Other lubricants within this designated product category can compete with similar other lubricants with recycled content. According to the Resource Conservation and Recovery Act of 1976, section 6002, Federal agencies must give preference in their purchasing programs for the U.S. Environmental Protection Agency's CPG-designated Vehicular Products: Re-Refined Lubricating Oil containing recovered materials as products. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.11.

[84 FR 32021, July 5, 2019]

§ 3201.138 Phase change materials.

(a) *Definition.* Phase change materials are products that are capable of absorbing and releasing large amounts of thermal energy by freezing and thawing at certain temperatures. Heat is absorbed or released when the material changes from solid to liquid and vice versa. Applications may include, but are not limited to, conditioning of buildings, medical applications, thermal energy storage, or cooling of food. Materials such as animal fats and plant oils that melt at desirable temperatures are typically used to make products in this category.

(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 total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased phase change materials. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased phase change materials.

[84 FR 32021, July 5, 2019]

7 CFR Ch. XXXII (1–1–25 Edition)

§ 3201.139 Playground and athletic surface materials.

(a) *Definition.* Playground and athletic surface materials are products that are designed for use on playgrounds and athletic surfaces. Examples include materials that are applied to the surfaces of playgrounds, athletic fields, and other sports surfaces to enhance or change the color or general appearance of the surface and to provide safety and/or performance benefits. Such materials include, but are not limited to, top coatings, primers, line marking paints, and rubberized pellets that are used on athletic courts, tracks, natural or artificial turf, and other playing surfaces. This category does not include the artificial turf or surface itself, as that is included in the carpets product category.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 22 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased playground and athletic surface materials. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased playground and athletic surface materials.

(d) *Determining overlap with a designated product category in the EPA's CPG program.* Qualifying products within this product category may overlap with the EPA's CPG-designated recovered content product categories of Parks and Recreation Products: Playground Surfaces and Running Tracks. USDA is requesting that manufacturers of these qualifying biobased products provide information on the Bio-Preferred Program's website about the intended uses of the product, information on whether 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 a qualifying biobased product overlaps with the EPA's CPG-designated product categories of Parks and Recreation Products: Playground Surfaces and Running Tracks and which product should be afforded the preference in purchasing.

NOTE 1 TO PARAGRAPH (d): Playground and athletic surface materials within this designated product category can compete with similar playground and athletic surface materials with recycled content. According to the Resource Conservation and Recovery Act of 1976, section 6002, Federal agencies must give preference in their purchasing programs for the U.S. Environmental Protection Agency's CPG-designated product categories of Parks and Recreation Products: Playground Surfaces and Running Tracks containing recovered materials as products. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.10.

[84 FR 32021, July 5, 2019]

§ 3201.140 Powder coatings.

(a) *Definition.* Powder coatings are polymer resin systems that are combined with stabilizers, curatives, pigments, and other additives and ground into a powder. These coatings are applied electrostatically to metallic surfaces and then cured under heat. Powder coatings are typically used for coating metals, such as vehicle and bicycle parts, household appliances, and aluminum extrusions.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum 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 total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased powder coatings. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased powder coatings.

[84 FR 32021, July 5, 2019]

§ 3201.141 Product packaging.

(a) *Definition.* Product packaging items are used to protect, handle, and retain a product during activities related but not limited to its storage, distribution, sale, and use. These containers are typically designed to be used once. This category excludes packing and insulating materials and shopping and trash bags.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 25 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased product packaging. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased product packaging.

(d) *Determining overlap with a designated product category in the EPA's CPG program.* Qualifying products within this product category may overlap with the EPA's CPG-designated recovered content product category of Paper Products: Paperboard and Packaging. USDA is requesting that manufacturers of these qualifying biobased products provide information on the Bio-Preferred Program's website about the intended uses of the product, information on whether 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 a qualifying biobased product overlaps with the EPA's CPG-designated product category of Paper Products: Paperboard and Packaging and which product should be afforded the preference in purchasing.

NOTE 1 TO PARAGRAPH (d): Product packaging within this designated product category can compete with similar product packaging with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental

§ 3201.142

Protection Agency CPG-designated Paper Products: Paperboard and Packaging 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 247.10.

[84 FR 32021, July 5, 2019]

§ 3201.142 Rugs and floor mats.

(a) *Definition.* Rugs or floor mats are floor coverings that are used for decorative or ergonomic purposes and that are not attached to the floor. This category includes items such as area rugs, rug runners, chair mats, and bathroom and kitchen mats. This category excludes products composed of woven, tufted, or knitted fiber and a backing system because these products fall under the “Carpets” product category.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 23 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased rugs and floor mats. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased rugs and floor mats.

(d) *Determining overlap with a designated product category in the EPA’s CPG program.* Qualifying products within this product category may overlap with the EPA’s CPG-designated recovered content product category of Miscellaneous Products: Mats. USDA is requesting that manufacturers of these qualifying biobased products provide information on the BioPreferred Program’s website about the intended uses of the product, information on whether 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 a qualifying biobased product overlaps with the EPA’s CPG-des-

7 CFR Ch. XXXII (1–1–25 Edition)

ignated product category of Miscellaneous Products: Mats and which product should be afforded the preference in purchasing.

NOTE 1 TO PARAGRAPH (d): Rugs and floor mats within this designated product category can compete with similar rugs or floor mats with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency CPG-designated Miscellaneous Products: Mats 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.

[84 FR 32021, July 5, 2019]

§ 3201.143 Shopping and trash bags.

(a) *Definition.* Shopping and trash bags are open-ended bags that are typically made of thin, flexible film and are used for containing and transporting items such as consumer goods and waste. Examples include trash bags, can liners, shopping or grocery bags, pet waste bags, compost bags, and yard waste bags. This category does not include product packaging, disposable containers, or semi-durable and non-durable films.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 22 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased shopping and trash bags. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased shopping and trash bags.

(d) *Determining overlap with a designated product category in the EPA’s CPG program.* Qualifying products within this product category may overlap with the EPA’s CPG-designated recovered content product category of Non-Paper Office Products: Plastic Trash Bags. USDA is requesting that manufacturers of these qualifying biobased

products provide information on the BioPreferred Program's website about the intended uses of the product, information on whether 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 a qualifying biobased product overlaps with the EPA's CPG-designated product category of Non-Paper Office Products: Trash Bags and which product should be afforded the preference in purchasing.

NOTE 1 TO PARAGRAPH (d): Shopping and trash bags within this designated product category can compete with similar shopping and trash bags with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency CPG-designated Non-Paper Office Products: Trash Bags 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.

[84 FR 32021, July 5, 2019]

§ 3201.144 Soil amendments.

(a) *Definition.* Soil amendments are materials that enhance the physical characteristics of soil through improving water retention or drainage, improving nutrient cycling, promoting microbial growth, or changing the soil's pH. This category excludes foliar sprays and chemical fertilizers.

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

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased soil amendments. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased soil amendments.

(d) *Determining overlap with a designated product category in the EPA's CPG program.* Qualifying products within this product category may overlap with the EPA's CPG-designated recovered content product categories of Landscaping Products: Compost Made From Recovered Organic Materials and Landscaping Products: Fertilizer Made From Recovered Organic Materials. USDA is requesting that manufacturers of these qualifying biobased products provide information on the BioPreferred Program's website about the intended uses of the product, information on whether 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 a qualifying biobased product overlaps with the EPA's CPG-designated product categories Landscaping Products: Compost Made From Recovered Organic Materials and Landscaping Products: Fertilizer Made From Recovered Organic Materials and which product should be afforded the preference in purchasing.

NOTE 1 TO PARAGRAPH (d): Soil amendments within this designated product category can compete with similar soil amendments with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency CPG-designated Landscaping Products: Compost Made From Recovered Organic Materials and Landscaping Products: Fertilizer Made From Recovered Organic Materials 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 247.15.

[84 FR 32021, July 5, 2019]

§ 3201.145 Surface guards, molding, and trim.

(a) *Definition.* Surface guards, molding, and trim products are typically used during construction or manufacturing. These products are designed to protect surfaces, such as walls and floors, from damage or to cover the exposed edges of furniture or floors.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 26 percent, which shall

§ 3201.146

be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased surface guards, molding, and trim. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased surface guards, molding, and trim.

[84 FR 32021, July 5, 2019]

§ 3201.146 Toys and sporting gear.

(a) *Definition.* Toys and sporting gear are products that are designed for indoor or outdoor recreational use including, but not limited to, toys; games; and sporting equipment and accessories such as balls, bats, racquets, nets, and bicycle seats. This category does not include products such as cleaners, lubricants, and oils that are used to maintain or clean toys and sporting gear.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 32 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased toys and sporting gear. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased toys and sporting gear.

[84 FR 32021, July 5, 2019]

§ 3201.147 Traffic and zone marking paints.

(a) *Definition.* Traffic and zone marking paints are products that are formulated and marketed for marking and striping parking lots, roads, streets, highways, or other traffic surfaces in-

7 CFR Ch. XXXII (1–1–25 Edition)

cluding, but not limited to, curbs, crosswalks, driveways, sidewalks, and airport runways.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 30 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased traffic and zone marking paints. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased traffic and zone marking paints.

[84 FR 32021, July 5, 2019]

§ 3201.148 Transmission fluids.

(a) *Definition.* Transmission fluids are liquids that lubricate and cool the moving parts in a transmission to prevent wearing and to ensure smooth performance.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 60 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased transmission fluids. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased transmission fluids.

(d) *Determining overlap with a designated product category in the EPA's CPG program.* Qualifying products within this product category may overlap with the EPA's CPG-designated recovered content product category of Vehicular Products: Re-refined Lubricating Oil. USDA is requesting that manufacturers of these qualifying

biobased products provide information on the BioPreferred Program's website about the intended uses of the product, information on whether 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 a qualifying biobased product overlaps with the EPA's CPG-designated Vehicular Products: Re-Refined Lubricating Oil and which product should be afforded the preference in purchasing.

NOTE 1 TO PARAGRAPH (d): Transmission fluids within this designated product category can compete with similar transmission fluids with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency CPG-designated product categories Vehicular Products: Re-Refined Lubricating Oil 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 247.11.

[84 FR 32021, July 5, 2019]

§ 3201.149 Wall coverings.

(a) *Definition.* Wall coverings are materials that are applied to walls using an adhesive. This category includes, but is not limited to, wallpaper, vinyl wall coverings, and wall fabrics. This category excludes all types of paints or coatings.

(b) *Minimum biobased content.* The Federal preferred procurement product must have a minimum biobased content of at least 62 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than July 6, 2020, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased wall coverings. By that date, Federal agencies responsible for drafting or reviewing specifications for products to be procured shall ensure that the relevant specifications require the use of biobased wall coverings.

[84 FR 32021, July 5, 2019]

PART 3202—VOLUNTARY LABELING PROGRAM FOR BIOBASED PRODUCTS

Sec.

3202.1 Purpose and scope.

3202.2 Definitions.

3202.3 Applicability.

3202.4 Criteria for product eligibility to use the certification mark.

3202.5 Initial approval process.

3202.6 Appeal processes.

3202.7 Requirement associated with the certification mark.

3202.8 Violations.

3202.9 Recordkeeping requirements.

3202.10 Oversight and monitoring.

AUTHORITY: 7 U.S.C. 8102.

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

EFFECTIVE DATE NOTE: At 89 FR 97465, Dec. 9, 2024, Part 3202 was removed and reserved, effective Jan. 8, 2025.

§ 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

§ 3202.2

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

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

(ii) An intermediate ingredient or feedstock.

(2) The term “biobased product” includes, with respect to forestry materials, forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging.

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.

7 CFR Ch. XXXII (1–1–25 Edition)

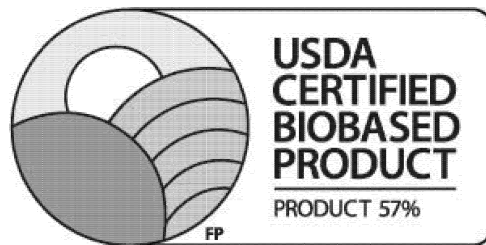


Figure 1. USDA Certified Biobased Product Certification Mark
(Note: actual size will vary depending on application)

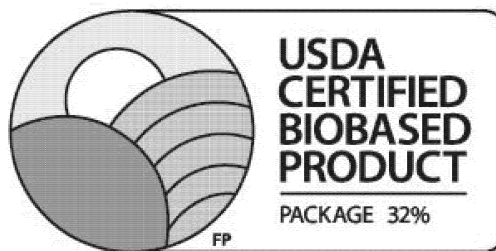


Figure 2. USDA Certified Biobased Product: Package Certification Mark
(Note: actual size will vary depending on application)

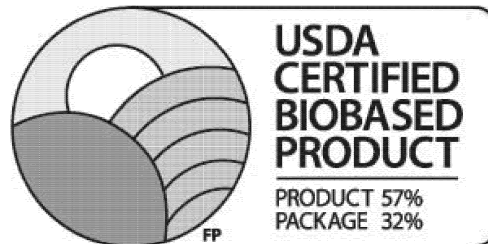


Figure 3. USDA Certified Biobased Product & Package Certification Mark
(Note: actual size will vary depending on application)

Certified biobased product. A biobased product for which the manufacturer or vendor of the product has received approval from USDA to affix to the prod-

uct the “USDA Certified Biobased Product” certification mark.

Days. As used in this part means calendar days.

Designated product category. A generic grouping of biobased products, including those final products made from designated intermediate ingredients or feedstocks, or complex assemblies identified in subpart B of 7 CFR part 3201, that is eligible for the procurement preference established under section 9002 of FSRIA.

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.

Forest product. A product made from materials derived from the practice of forestry or the management of growing timber. The term “forest product” includes:

- (1) Pulp, paper, paperboard, pellets, lumber, and other wood products; and
- (2) Any recycled products derived from forest materials.

Intermediate ingredient or feedstock. A material or compound made in whole or in significant part from biological products, including renewable agricultural materials (including plant, animal, and marine materials) or forestry materials that have undergone value added processing (including thermal, chemical, biological, or a significant amount of mechanical processing), excluding harvesting operations, offered for sale by a manufacturer or vendor and that is subsequently used to make a more complex compound or product.

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.

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.

Qualified biobased product. A product that is eligible for federal preferred procurement because it meets the definition and minimum biobased content criteria for one or more designated product categories, or one or more designated intermediate ingredient or feedstock categories, as specified in subpart B of 7 CFR part 3201.

Renewable chemical. A monomer, polymer, plastic, formulated product, or chemical substance produced from renewable biomass.

USDA. The United States Department of Agriculture.

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

[76 FR 3806, Jan. 20, 2011. Redesignated and amended at 76 FR 53632, Aug. 29, 2011; 80 FR 34036, June 15, 2015]

§ 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) through (c) of this section in order to be eligible to receive biobased product certification.

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

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

(b) *Minimum biobased content.* The biobased content of the product must be equal to or greater than the applicable minimum biobased content, as described in paragraphs (b)(1) through (b)(4) of this section.

(1) *Qualified Biobased Products—(i) Product is within a single product category.* If the product is within a single product category that, at the time the application for certification is submitted, has been designated by USDA for Federal preferred procurement, the applicable minimum biobased content is the minimum biobased content specified for the item as found in subpart B of 7 CFR part 3201.

(ii) *Product is within multiple product categories.* If a biobased product is marketed within more than one product category identified for preferred Federal purchasing, uses the same packaging for each product, and the applicant seeks certification of the product, the product's biobased content must meet or exceed the specified minimum biobased content for each of the applicable product categories in order to use the certification mark on the product. However, if the manufacturer packages the product differently for each product category, then the applicable minimum biobased contents are those established under paragraph (b)(1)(i) of this section for each product category for which the applicant seeks to use the certification mark.

(2) *Finished biobased products that are not Qualified Biobased Products.* (i) If the product is not an intermediate ingredient or feedstock, and is not within a product category eligible for Federal preferred procurement at the time the application for certification is sub-

mitted, the applicable minimum biobased content is 25 percent. Manufacturers, vendors, groups of manufacturers and/or vendors, and trade associations may propose an alternative applicable minimum biobased content for the product by developing, in consultation with USDA, and conducting an analysis to support the proposed alternative applicable minimum biobased content. If approved by USDA, the proposed alternative applicable minimum biobased content would become the applicable minimum biobased content for the product to be labeled.

(ii) If a product certified under paragraph (b)(2)(i) of this section is within a product category that USDA subsequently designates for Federal preferred procurement, the applicable minimum biobased content shall become, as of the effective date of the final designation rule, the minimum biobased content specified for the item as found in subpart B of 7 CFR part 3201.

(3) *Products that are intermediate ingredients or feedstocks.* (i) If the product is an intermediate ingredient or feedstock that is not eligible for Federal preferred procurement at the time the application for certification is submitted, the applicable minimum biobased content is 25 percent. Manufacturers, vendors, groups of manufacturers and/or vendors, and trade associations may propose an alternative applicable minimum biobased content for the product by developing, in consultation with USDA, and conducting an analysis to support the proposed alternative applicable minimum biobased content. If approved by USDA, the proposed alternative applicable minimum biobased content would become the applicable minimum biobased content for the intermediate ingredient or feedstock product to be labeled.

(ii) If a product certified under paragraph (b)(3)(i) of this section is within a category that USDA subsequently designates for Federal preferred procurement, the applicable minimum biobased content shall become, as of the effective date of the final designation rule, the minimum biobased content specified for the item as found in subpart B of 7 CFR part 3201.

(4) *Finished products that are complex assemblies.* (i) If the product is a complex assembly, as defined in subpart A of 7 CFR part 3201, that is not eligible for federal preferred procurement at the time the application for certification is submitted, the applicable minimum biobased content is 25 percent. The biobased content shall be determined using the procedures specified in §3201.7(c)(3) of this chapter. Manufacturers, vendors, groups of manufacturers and/or vendors, and trade associations may propose an alternative applicable minimum biobased content for the product by developing, in consultation with USDA, and conducting an analysis to support the proposed alternative applicable minimum biobased content. If approved by USDA, the proposed alternative applicable minimum biobased content would become the applicable minimum biobased content for the complex assembly to be labeled.

(ii) If a product certified under paragraph (b)(4)(i) of this section is within a category that USDA subsequently designates for federal preferred procurement, the applicable minimum biobased content shall become, as of the effective date of the final designation rule, the minimum biobased content specified for the item as found in subpart B of 7 CFR part 3201.

(c) *Innovative approach.* In determining eligibility for certification under the BioPreferred Program, USDA will consider as eligible only those products that use innovative approaches in the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of the biobased product. USDA will consider products that meet one or more of the criteria in paragraphs (c)(1) through (4) of this section to be eligible for certification. USDA will also consider other documentation of innovative approaches in the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of biobased products on a case by case basis. USDA may deny certification for any products whose manufacturers are unable to provide USDA with the documentation necessary to verify claims that innovative approaches are used in the growing, harvesting, sourcing, pro-

curing, processing, manufacturing, or application of their biobased products.

(1) *Product applications.* (i) The biobased product or material is used or applied in applications that differ from historical applications; or

(ii) The biobased product or material is grown, harvested, manufactured, processed, sourced, or applied in other innovative ways; or

(iii) The biobased content of the product or material makes its composition different from products or material used for the same historical uses or applications.

(2) *Manufacturing and processing.* (i) The biobased product or material is manufactured or processed using renewable, biomass energy or using technology that is demonstrated to increase energy efficiency or reduce reliance on fossil-fuel based energy sources; or

(ii) The biobased product or material is manufactured or processed with technologies that ensure high feedstock material recovery and use.

(3) *Environmental Product Declaration.* The product has a current Environmental Product Declaration as defined by International Standard ISO 14025, Environmental Labels and Declarations—Type III Environmental Declarations—Principles and Procedures.

(4) *Raw material sourcing.* (i) The raw material used in the product is sourced from a Legal Source, a Responsible Source, or a Certified Source as designated by ASTM D7612—10, Standard Practice for Categorizing Wood and Wood-Based Products According to Their Fiber Sources; or

(ii) The raw material used in the product is 100% resourced or recycled (such as material obtained from building deconstruction); or

(iii) The raw material used in the product is from an urban environment and is acquired as a result of activities related to a natural disaster, land clearing, right-of-way maintenance, tree health improvement, or public safety.

[76 FR 3806, Jan. 20, 2011. Redesignated and amended at 76 FR 53632, Aug. 29, 2011; 80 FR 34038, June 15, 2015]

§ 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 site (<http://www.biopREFERRED.gov>). 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, intended uses of the product, information to document that one or more of the innovative approach criteria specified in section 3202.4(c) has been met, and, if applicable, the corresponding product category classification for federal preferred procurement. The applicant must also provide a sample of the product to be analyzed by a third-party, ISO 9001 conformant, testing entity for determination of the biobased content. In situations where a new product for which certification is sought is composed of the same biobased ingredients and has the same biobased content as a product that has already been certified, the manufacturer may, in lieu of having the new product tested, self-declare the biobased content of the new product by referencing the tested biobased content of the original certified product. Certification of the original product must have been obtained by either the manufacturer of the new product or by the supplier of the biobased ingredients used in the new product.

(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 applications.* (1) USDA will evaluate each 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. Paragraph (c)(5) of this section presents the procedures for revising the information provided under paragraphs (c)(1) through (4) of this section after a notice of certification has been issued.

(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).

(5) If at any time, during the application process or after a product has been certified, any of the information specified in paragraphs (c)(1) through (4) of this section changes, the applicant must notify USDA of the change within 30 days. Such notification must be provided in writing to USDA.

(d) *Term of certification.* (1) The effective date of certification is the date on which the applicant receives a notice of certification from USDA. Except as specified in paragraphs (d)(2)(i) through (d)(2)(v) of this section, certifications will remain in effect as long as the product is manufactured and marketed in accordance with the approved application and the requirements of this subpart.

(2)(i) If the product formulation of a certified product is changed such that the biobased content of the product is reduced to a level below that reported in the approved application, the existing certification will not be valid for the product under the revised conditions and the manufacturer or vendor, as applicable, and its designated representatives must discontinue affixing the certification mark to the product and must not initiate any further advertising of the product using the certification mark. USDA will consider a

product under such revised conditions to be a reformulated product, and the manufacturer or vendor, as applicable, must submit a new application for certification using the procedures specified in paragraph (a) of this section.

(ii) If the product formulation of a certified product is changed such that the biobased content of the product is increased from the level reported in the approved application, the existing certification will continue to be valid for the product.

(iii) If the applicable required minimum biobased content for a product to be eligible to display the certification mark is revised by USDA, manufacturers and vendors may continue to label their previously certified product only if it meets the new minimum biobased content level. In those cases where the biobased content of a certified product fails to meet the new minimum biobased content level, USDA will notify the manufacturer or vendor that their certification is no longer valid. Such manufacturers and vendors must increase the biobased content of their product to a level at or above the new minimum biobased content level and must re-apply for certification within 60 days if they wish to continue to use the certification mark. Manufacturers and vendors who have re-applied for certification may continue using the existing certification mark until they receive notification from USDA on the results of their re-application for certification.

(iv) All certifications are subject to USDA periodic auditing activities, as described in §3202.10(d). If a manufacturer or vendor of a certified biobased product fails to participate in such audit activities or if such audit activities reveal biobased content violations, as specified in §3202.8(b)(1), the certification will be subject to suspension and revocation according to the procedures specified in §3202.8(c).

(v) If USDA discovers that a certification has been issued for an ineligible biobased product as a result of errors on the part of USDA during the approval process, USDA will notify the product's manufacturer or vendor in

writing that the certification is revoked effective 30 days from the date of the notice.

[76 FR 3806, Jan. 20, 2011. Redesignated and amended at 76 FR 53632, Aug. 29, 2011; 80 FR 34038, June 15, 2015]

§ 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 rep-

resentatives may immediately resume affixing the certification mark to the certified biobased product and sell and distribute the certified biobased product with the certification mark. In addition, USDA will reinstate the product's information to the USDA BioPreferred Program Web site.

(c) If the Program Manager sustains a manufacturer's or vendor's appeal of its product's exclusion from the program, the manufacturers or vendors may then apply for certification to use the certification mark on that product, as specified in § 3202.5(a) of this part.

(d) Appeals of any of the Program Manager's decisions may be made to the USDA Assistant Secretary for Administration. Appeals must be made, in writing, within 30 days of receipt of the Program Manager's decision and addressed to: Assistant Secretary for Administration, Room 209A, Whitten Building, 1400 Independence Avenue, SW., Washington, DC 20250-0103. If the Assistant Secretary for Administration sustains an appeal, the provisions of paragraph (b) of this section will apply.

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

§ 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/ Product & 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 docu-

ments 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.

(h) *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 recertification 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 a manufacturer, a vendor, or a designated representative of a manufacturer or vendor, USDA will pursue notices of suspensions and

revocation, as discussed in paragraphs (c)(1) and (c)(2) of this section. USDA reserves the right to further pursue action against these entities as provided for in paragraph (c)(3) of this section. 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 2 CFR part 417 and 48 CFR subpart 9.4. 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.

[76 FR 3806, Jan. 20, 2011. Redesignated and amended at 76 FR 53632, Aug. 29, 2011; 80 FR 34039, June 15, 2015]

§ 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

§ 3202.10

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 end of the label certification period (*i.e.*, 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.

(d) *Audits.* USDA expects to conduct audits of the voluntary labeling program on an ongoing basis with audit activities conducted every other calendar year (bi-annually). Audit activities will include three stages and will be conducted in sequential order as follows:

(1) Stage 1 auditing includes contacting all participants via email and requesting that they complete a “Declaration of Conformance Form.” Pro-

7 CFR Ch. XXXII (1–1–25 Edition)

gram participants are asked to confirm that they still manufacture the product and that the formulation and manufacturing processes remain the same. Participants are also asked to list all active products and advise the USDA of any complaints regarding the claim of the biobased content. The first Stage 1 auditing activity was completed in 2012 and the second Stage 1 audit will be conducted in 2018.

(2) Stage 2 auditing consists of a random sampling of certified products to confirm the accuracy of biobased content percentages claimed. The participants whose products are selected will be required to submit product samples to be tested by independent testing labs at USDA expense. The first Stage 2 auditing activity began in 2014 and is scheduled to be completed during 2015 and the second Stage 2 audit will be conducted in 2020.

(3) Stage 3 auditing requires manufacturers of products that have been certified for 5 years or more to have their products re-tested at their expense to confirm that the biobased content remains at or above the level at which the product was originally certified. The first Stage 3 auditing activity is scheduled to be completed during 2016 and the second Stage 3 audit will be conducted in 2022.

[76 FR 3806, Jan. 20, 2011. Redesignated and amended at 76 FR 53632, Aug. 29, 2011; 80 FR 34039, June 15, 2015]

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.
- 3203.11 Liabilities and losses.

AUTHORITY: 7 U.S.C. 2206b.