

nally enacted by Pub. L. 107-171, title IX, May 13, 2002, 116 Stat. 475, and amended by Pub. L. 108-199, div. A, title VII, § 778(b), Jan. 23, 2004, 118 Stat. 41; Pub. L. 109-58, title II, § 205, title IX, § 943(a), (b), Aug. 8, 2005, 119 Stat. 654, 880, 881; Pub. L. 109-171, title I, § 1301, Feb. 8, 2006, 120 Stat. 6. Such title is shown herein, however, as having been added by Pub. L. 110-234, title IX, § 9001(a), May 22, 2008, 122 Stat. 1303, and Pub. L. 110-246, § 4(a), title IX, § 9001(a), June 18, 2008, 122 Stat. 1664, 2064, without reference to such intervening amendments because of the extensive revision of the title's provisions by Pub. L. 110-234 and Pub. L. 110-246, which amended the title identically. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

## § 8101. Definitions

Except as otherwise provided, in this chapter:

### (1) Administrator

The term “Administrator” means the Administrator of the Environmental Protection Agency.

### (2) Advisory Committee

The term “Advisory Committee” means the Biomass Research and Development Technical Advisory Committee established by section 8108(d)(1) of this title.

### (3) Advanced biofuel

#### (A) In general

The term “advanced biofuel” means fuel derived from renewable biomass other than corn kernel starch.

#### (B) Inclusions

Subject to subparagraph (A), the term “advanced biofuel” includes—

- (i) biofuel derived from cellulose, hemicellulose, or lignin;
- (ii) biofuel derived from sugar and starch (other than ethanol derived from corn kernel starch);
- (iii) biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste;
- (iv) diesel-equivalent fuel derived from renewable biomass, including vegetable oil and animal fat;
- (v) biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass;
- (vi) butanol or other alcohols produced through the conversion of organic matter from renewable biomass; and
- (vii) other fuel derived from cellulosic biomass.

### (4) Biobased product

The term “biobased product” means a product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is—

- (A) composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials, renewable chemicals, and forestry materials; or
- (B) an intermediate ingredient or feedstock.

### (5) Biofuel

The term “biofuel” means a fuel derived from renewable biomass.

### (6) Biomass conversion facility

The term “biomass conversion facility” means a facility that converts or proposes to convert renewable biomass into—

- (A) heat;
- (B) power;
- (C) biobased products; or
- (D) advanced biofuels.

### (7) Biorefinery

The term “biorefinery” means a facility (including equipment and processes) that—

- (A) converts renewable biomass or an intermediate ingredient or feedstock of renewable biomass into any 1 or more, or a combination, of—
  - (i) biofuels;
  - (ii) renewable chemicals; or
  - (iii) biobased products; and
- (B) may produce electricity.

### (8) Board

The term “Board” means the Biomass Research and Development Board established by section 8108(c) of this title.

### (9) Forest product

#### (A) In general

The term “forest product” means a product made from materials derived from the practice of forestry or the management of growing timber.

#### (B) Inclusions

The term “forest product” includes—

- (i) pulp, paper, paperboard, pellets, lumber, and other wood products; and
- (ii) any recycled products derived from forest materials.

### (10) Indian tribe

The term “Indian tribe” has the meaning given the term in section 5304 of title 25.

### (11) Institution of higher education

The term “institution of higher education” has the meaning given the term in section 1002(a) of title 20.

### (12) Intermediate ingredient or feedstock

The term “intermediate ingredient or feedstock” means 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 are subsequently used to make a more complex compound or product.

### (13) Renewable biomass

The term “renewable biomass” means—

- (A) materials, pre-commercial thinnings, or invasive species from National Forest System land and public lands (as defined in section 1702 of title 43) that—
  - (i) are byproducts of preventive treatments that are removed—
    - (I) to reduce hazardous fuels;
    - (II) to reduce or contain disease or insect infestation; or
    - (III) to restore ecosystem health;
  - (ii) would not otherwise be used for higher-value products; and

(iii) are harvested in accordance with—

(I) applicable law and land management plans; and

(II) the requirements for—

(aa) old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) of section 6512 of title 16; and

(bb) large-tree retention of subsection (f) of that section; or

(B) any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

(i) renewable plant material, including—

(I) feed grains;

(II) other agricultural commodities;

(III) other plants and trees; and

(IV) algae; and

(ii) waste material, including—

(I) crop residue;

(II) other vegetative waste material (including wood waste and wood residues);

(III) animal waste and byproducts (including fats, oils, greases, and manure); and

(IV) food waste and yard waste.

#### **(14) Renewable chemical**

The term “renewable chemical” means a monomer, polymer, plastic, formulated product, or chemical substance produced from renewable biomass.

#### **(15) Renewable energy**

The term “renewable energy” means energy derived from—

(A) a wind, solar, renewable biomass, ocean (including tidal, wave, current, and thermal), geothermal, or hydroelectric source; or

(B) hydrogen derived from renewable biomass or water using an energy source described in subparagraph (A).

#### **(16) Renewable energy system**

##### **(A) In general**

Subject to subparagraph (C), the term “renewable energy system” means a system that produces usable energy from a renewable energy source.

##### **(B) Inclusions**

The term “renewable energy system” includes—

(i) distribution components necessary to move energy produced by a system described in subparagraph (A) to the initial point of sale; and

(ii) other components and ancillary infrastructure of a system described in subparagraph (A), such as a storage system.

##### **(C) Limitation**

A system described in subparagraph (A) may not include a mechanism for dispensing energy at retail.

#### **(17) Secretary**

The term “Secretary” means the Secretary of Agriculture.

(Pub. L. 107-171, title IX, § 9001, as added Pub. L. 110-234, title IX, § 9001(a), May 22, 2008, 122 Stat. 1303, and Pub. L. 110-246, § 4(a), title IX, § 9001(a), June 18, 2008, 122 Stat. 1664, 2064; amended Pub. L. 113-79, title IX, § 9001, Feb. 7, 2014, 128 Stat. 926; Pub. L. 115-334, title IX, § 9001, Dec. 20, 2018, 132 Stat. 4883.)

#### **Editorial Notes**

##### **CODIFICATION**

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

##### **PRIOR PROVISIONS**

A prior section 8101, Pub. L. 107-171, title IX, § 9001, May 13, 2002, 116 Stat. 475; Pub. L. 109-58, title IX, § 943(a)(1), Aug. 8, 2005, 119 Stat. 880, contained definitions for this chapter, prior to the general amendment of this chapter by Pub. L. 110-246.

##### **AMENDMENTS**

2018—Par. (4)(A). Pub. L. 115-334, § 9001(1), substituted “agricultural materials, renewable chemicals,” for “agricultural materials”.

Par. (7)(A). Pub. L. 115-334, § 9001(2), substituted “or an intermediate ingredient or feedstock of renewable biomass into any 1 or more, or a combination, of—” and cls. (i) to (iii) for “into biofuels and biobased products; and”.

Par. (16)(A). Pub. L. 115-334, § 9001(3)(A), substituted “subparagraph (C), the term ‘renewable energy system’ means a system that produces usable energy from a renewable energy source.” for “subparagraph (B), the term ‘renewable energy system’ means a system that—

“(i) produces usable energy from a renewable energy source; and

“(ii) may include distribution components necessary to move energy produced by such system to the initial point of sale.”

Par. (16)(B), (C). Pub. L. 115-334, § 9001(3)(B), (C), added subpar. (B) and redesignated former subpar. (B) as (C). 2014—Par. (9). Pub. L. 113-79, § 9001(2), added par. (9). Former par. (9) redesignated (10).

Par. (10) to (13). Pub. L. 113-79, § 9001(1), redesignated pars. (9) to (12) as (10) to (13), respectively. Former par. (13) redesignated (15).

Par. (14). Pub. L. 113-79, § 9001(3), added par. (14).

Par. (15). Pub. L. 113-79, § 9001(1), redesignated par. (13) as (15).

Par. (16). Pub. L. 113-79, § 9001(4), added par. (16).

Par. (17). Pub. L. 113-79, § 9001(1), redesignated par. (14) as (17).

#### **Statutory Notes and Related Subsidiaries**

##### **EFFECTIVE DATE**

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

##### **SHORT TITLE OF 2004 AMENDMENT**

Pub. L. 108-199, div. A, title VII, § 778(a), Jan. 23, 2004, 118 Stat. 41, provided that: “This section [enacting section 8109 of this title] may be cited as the ‘Sun Grant Research Initiative Act of 2003’.”

##### **BIOMASS RESEARCH AND DEVELOPMENT**

Pub. L. 106-224, title III, June 20, 2000, 114 Stat. 428; as amended by Pub. L. 107-171, title IX, § 9008, May 13, 2002,

116 Stat. 483; Pub. L. 108-148, title II, §201, Dec. 3, 2003, 117 Stat. 1901; Pub. L. 109-58, title IX, §941, Aug. 8, 2005, 119 Stat. 873, known as the Biomass Research and Development Act of 2000, and formerly set out as a note under this section, provided temporary authority for the Secretaries of Agriculture and Energy to promote biomass research and development. As amended by Pub. L. 109-58, the program became permanent, and title III of Pub. L. 106-224 was transferred to chapter 112 (§8601 et seq.) of this title. Subsequently, title III of Pub. L. 106-224 was repealed by Pub. L. 110-246, title IX, §9001(b), June 18, 2008, 122 Stat. 2095.

### Executive Documents

#### BIOFUELS AND RURAL ECONOMIC DEVELOPMENT

Memorandum of President of the United States, May 5, 2009, 74 F.R. 21531, provided:

Memorandum for the Secretary of Agriculture, the Secretary of Energy, [and] the Administrator of the Environmental Protection Agency

In the Nation's ongoing efforts to achieve energy independence, biomass and biofuels promise to play a key role by providing the Nation with homegrown sustainable energy options and energizing our economy with new industries and jobs. While producing clean renewable fuels locally is a powerful engine of economic growth, they must be developed and used in a way that limits environmental impact. Today, the Environmental Protection Agency (EPA) is issuing a Notice of Proposed Rulemaking, as required by the Energy Independence and Security Act of 2007, to set new national renewable fuel standards and implement those standards. The public will have an opportunity to provide input on this proposal through a 60-day comment period, and the EPA is conducting peer reviews on key aspects of the environmental impact assessments within the proposal.

In order to shepherd our Nation's development of this important industry and to coordinate interagency policy, I hereby establish a Biofuels Interagency Working Group (Working Group), to be co-chaired by the Secretaries of Agriculture and Energy and the Administrator of the EPA. This Working Group will coordinate with the National Science and Technology Council's Biomass Research and Development Board in undertaking its work. The responsibilities of the Working Group shall include:

(a) Developing the Nation's first comprehensive biofuel market development program, which shall use existing authorities and identify new policies to support the development of next-generation biofuels, increase flexible fuel vehicle use, and assist in retail marketing efforts;

(b) Coordinating infrastructure policies affecting the supply, secure transport, and distribution of biofuels; and

(c) Identifying new policy options to promote the environmental sustainability of biofuels feedstock production, taking into consideration land use, habitat conservation, crop management practices, water efficiency and water quality, as well as lifecycle assessments of greenhouse gas emissions.

Alongside the Working Group's efforts, the Secretary of Agriculture may pursue other important biofuel development efforts. The Rural Development Act of 1972 and the Rural Development Policy Act of 1980 direct the Secretary of Agriculture to develop, in coordination with State and local governments, a nationwide rural development program to assure rural America's health and prosperity. In keeping with that mandate, and recognizing the key role rural America will play in the development of biofuel technology and development, I request that the Secretary of Agriculture take the following steps, to the extent permitted by law:

(a) Immediately begin restructuring existing investments in renewable fuels as needed to preserve industry employment; and

(b) Develop a comprehensive approach to accelerating the investment in and production of American biofuels

and reducing our dependence on fossil fuels by providing, within 30 days, under the authorities made available in the Food, Conservation, and Energy Act of 2008:

(i) Loan guarantees for the development, construction, and retrofitting of commercial-scale biorefineries and grants to help pay for the development and construction costs of demonstration-scale biorefineries;

(ii) Expedited funding to encourage biorefineries to replace the use of fossil fuels in plant operations by installing new biomass energy systems or producing new energy from renewable biomass;

(iii) Expedited funding to biofuels producers to encourage production of next-generation biofuels from cellulosic biomass and other feedstocks;

(iv) Expansion of the Renewable Energy Systems and Energy Efficiency Improvements Program, which has been renamed the Rural Energy for America Program, to include hydroelectric source technologies, energy audits, and higher loan guarantee limits; and

(v) Guidance and support for collection, harvest, storage, and transportation assistance for eligible materials for use in biomass conversion facilities.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Secretary of Agriculture is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

### § 8102. Biobased markets program

#### (a) Federal procurement of biobased products

##### (1) Definition of procuring agency

In this subsection, the term “procuring agency” means—

(A) any Federal agency that is using Federal funds for procurement; or

(B) a person that is a party to a contract with any Federal agency, with respect to work performed under such a contract.

##### (2) Procurement preference

###### (A) In general

###### (i) Procuring agency duties

Except as provided in clause (ii) and subparagraph (B), after the date specified in applicable guidelines prepared pursuant to paragraph (3), each procuring agency shall—

(I) establish a procurement program, develop procurement specifications, and procure biobased products identified under the guidelines described in paragraph (3) in accordance with this section;

(II) with respect to items described in the guidelines, give a procurement preference to those items that—

(aa) are composed of the highest percentage of biobased products practicable; or

(bb) comply with the regulations issued under section 6914b-1 of title 42; and

(III) 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 in-