

USDA Voluntary Biobased Product Labeling Proposed Rule Summary

Overview: On July 31, 2009, USDA declared its intent to create a biobased product label with the publishing of a *proposed rule*. The rule seeks to establish a voluntary labeling program for *biobased products* under *Section 9002 of the Farm Bill* (see “Key Terms” on back of this sheet for definitions of italicized terms). Under the proposed labeling program, biobased product manufacturers and vendors could affix a “USDA Certified Biobased Product” label to their products. The presence of the label will mean that the product meets or exceeds USDA standards for the amount of biobased content, and that the manufacturer or vendor has provided relevant information on the product for the USDA BioPreferred Web site. The purpose of the labeling program is to promote the sale and use of biobased products in the commercial sector.

What are “Farm Bills”?

U.S. Farm Bills are the primary agricultural and food policy legislation of the Federal government. The bills are revised every few years and can affect farm production practices, food safety, environmental policies, and international trade, as well as many other agricultural influencers.

The 2002 Farm Bill established the BioPreferred program to increase the purchase and use of biobased products made from renewable agricultural materials. The program was reauthorized in the 2008 Farm Bill.

Applicability: The proposed rule would apply to manufacturers and vendors of biobased products, as well as to other entities (e.g., trade associations, public interest groups) that promote, specify, sell, or use biobased products.

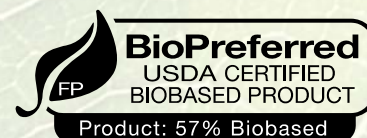
Eligibility: Products must be biobased to receive the label. Biobased products falling under a USDA designated item category under the *Federal procurement preference* portion of the BioPreferred program must meet the minimum biobased content of the relevant item. Products not falling under a designated item must be 51 percent biobased unless the label applicant applies for and receives an alternative minimum biobased content. *Mature market products*, which are excluded from the Federal procurement preference program, will be considered for label certification on a case-by-case basis.

Application Requirements: Applicants must submit testing evidence of biobased content. Applicants would also be required to commit to provide to USDA, and to update, the product’s brand name(s), contact information and a hot link directly to the applicant’s Web site (if available). USDA also is requiring that if manufacturers make claims on the product packaging about the environmental and human health effects, life-cycle costs, sustainability benefits, and performance of their products that documentation supporting such claims be maintained.

Evaluation: USDA will evaluate each complete application to determine if the product meets the above certification criteria. USDA will approve applications for label certification that meet the criteria and reject those that do not. Explanations will accompany rejected applications, and those applicants may revise their applications and resubmit for consideration.

Certification: Applicants may begin using the label upon receiving USDA certification. Certification will remain valid for as long as the biobased product is manufactured in accordance with the information supplied in the approved application. If USDA revises the applicable required minimum biobased content for a product, manufacturers and vendors may continue to label their previously certified product only if it meets the new minimum biobased content level.

Label Artwork. USDA is proposing requirements related to the physical appearance of the label artwork. The applicable label artwork supplied by the BioPreferred program must be used. See proposed label graphic at right for a product falling under a Federally-preferred (FP) designated item.



Next steps: You may review and comment on the proposed rule until September 29, 2009. Visit www.regulations.gov, click on “Search for a Proposed Rule,” then insert “0503-AA35” or “biobased” (no quotes) under the “keyword” box.

Key Terms

Proposed rules are part of the Federal rulemaking process. After a rule is proposed, it is published in the *Federal Register* and made available for public comment for 60-days. These comments are taken into consideration before the rule is finalized.

Biobased products are commercial or industrial products whose main ingredients are renewable plant or animal materials.

Section 9002 of the 2002 Farm Bill requires Federal government officials and their contractors to purchase biobased products as often as possible.

Federal procurement preference requires the U.S. Federal Government to buy products that meet certain standards, such as being biobased.

Mature market products are products that had a significant market share in 1972. For example, cotton t-shirts are biobased, but are considered a mature market product since a significant portion of the t-shirt market, as of that date above, was cotton-based products.