

period of time, fail to meet the performance standards set out in applicable specifications or fail to meet reasonable performance standards of procuring agencies, or are available only at an unreasonable price.

*Proposed § 2902.3: USDA Guidance on Item Availability and Procurement*

The proposed guidelines would provide that, prior to designating items for preferred procurement under the section 9002 program, USDA would consider a number of factors. These factors are availability of the items and the economic feasibility and technological feasibility of using such items, including life cycle costs. Moreover, when designating items for preferred procurement under the program, USDA would provide the following information to Federal agencies on the items designated: availability, relative price, performance, and environmental and public health benefits of using the designated items.

In order to accomplish these requirements, USDA plans to initially rely, in part, on the information developed in a study by Concurrent Technologies Corporation (CTC) to address the statutory requirement for information on item availability. This study was conducted by CTC under a contract with the USDA Agricultural Research Service (ARS) as one of the activities undertaken by ARS in order to fulfill Executive Order 13101's requirement for the development of information on the market availability of biobased items. The CTC study can be viewed on the Web site <http://www.biobased.oce.usda.gov>.

Information on economic and technological feasibility of using biobased items and life cycle costs will be sought from industry. Because of the heterogeneity among commercial products with biobased content within any grouping of biobased items, and the heterogeneity of characteristics across item groupings, information will be sought on individual commercial products included within each type of item. Once this information is available on a sufficient number of such products within an item, the information will be evaluated and extrapolated to the generic item level and, if determined to be adequate to meet the requirements of section 9002, the item will be designated for preferred procurement.

Information on relative price, performance, and environmental and public health benefits that the Secretary is required to provide to Federal agencies will be gathered from manufacturers and vendors at the individual product level. This

information, to be of maximum value to Federal agencies in making procurement decisions, must be considered at an individual product level.

USDA proposes to gather the above discussed information from industry using an Internet Web site to which manufacturers and vendors will be invited to voluntarily provide information, including availability on the commercial products with biobased content that they offer to Federal agencies. That Web site will provide business contact information, selected test information, and the information about the offered commercial products noted in this discussion. It will also group such information by item and indicate whether the item has been designated for preferred procurement under the section 9002 program. No items will be designated for preferred procurement until adequate information has been obtained from manufacturers and vendors to enable the Secretary to both designate the item and provide Federal agencies the required information about the item. USDA also believes that making the above noted information available on an individual commercial product basis on USDA's informational Web site will provide the greatest help to Federal agencies in making decisions on the purchase of biobased products.

USDA envisions the voluntary, web-based information system as the principal clearinghouse of information on manufacturer and vendor contact information, currently available products, and relevant product characteristics.

A standardized format with interactive capabilities will permit manufacturers and vendors to enter information into the Web site. The information is not expected to be either confidential or proprietary, but will instead be information a business firm would provide prospective purchasers. Data placed on the Web site will be password protected and can only be changed by the submitting manufacturer or vendor or by USDA. Moreover, password protection can extend, if necessary, to making individual product information accessible only to Federal agencies, USDA, and to the firm providing the information. USDA will ask manufacturers and vendors to annually review data provided on the Web site and to purge inaccurate or out-of-date information. In addition, USDA will periodically audit the information displayed and, where questions arise, contact the manufacturer or vendor to verify, correct, or remove incorrect or out-of-date information.

Federal agency procurement officials are encouraged to access the website to gather information on commercially available products within the scope of designated items, as a means of facilitating the acquisition of designated items, in furtherance of the requirements of section 9002.

After discussions with the Office of Management and Budget (OMB), USDA also has agreed to develop a model procurement policy and program for designated items to support its own procurement practices. USDA intends to work with OFPP to develop outreach and education programs, based on the USDA model procurement policy, to assist other Federal agencies in complying with the requirements of this program.

USDA seeks comments on the kinds of contact and product information that should be made available on its web-based information system, as well as comments on the appropriate components of a model procurement program for biobased items.

*Proposed § 2902.4: Definitions*

Section 2902.4 would define the terms used in the proposed guidelines. The definition of *biobased product* restates the statutory definition for that term in section 9001 of FSRIA. The section also defines several basic operational terms such as *Secretary*, *BEES*, *ASTM International*, *diluent*, *filler*, and *FSRIA*. The basis for many operative definitions is self-evident. The operative technical definitions reflect common industry usage. USDA is exercising its discretion in defining the remaining operational terms, most significantly *biological products*, *Federal agency*, *agricultural materials*, *biobased content*, *forestry materials*, and *small and emerging private business enterprises*.

*Proposed § 2902.5: Preferred Procurement Program*

Section 2902.5 sets out the procurement requirements or expectations that would apply to Federal agencies. In most respects, the information in this section reflects the responsibilities and implementation strategies discussed previously in this document (see section IV above). Section 2902.5(a) addresses procurement specifications and maximizing biobased content when procuring designated items. Section 2902.5(b) implements the requirement for Federal agencies to develop affirmative procurement programs. Section 2902.5(c) addresses the preference program component of the affirmative procurement programs.