



Ohio Revised Code

Section 125.092 Biobased product preference program.

Effective: May 31, 2010

Legislation: Senate Bill 131 - 128th General Assembly

(A) Except as provided in divisions (G) and (H) of this section, when purchasing equipment, material, or supplies, the department of administrative services, other state agencies, and state institutions of higher education shall purchase biobased products in accordance with the biobased product preference program established by the director of administrative services under this section.

(B) Not later than one hundred eighty days after the effective date of this section, the director shall establish a biobased product preference program, which shall ensure that the department of administrative services, other state agencies, and state institutions of higher education purchase biobased products by giving a preference to those designated items that are composed of the highest percentage of biobased content practicable or that comply with regulations adopted under 42 U.S.C. 6914b-1 by the administrator of the United States environmental protection agency. The purchase of biobased products under the program shall be consistent with sections 125.01 to 125.11 of the Revised Code.

As part of the program, the director shall adopt a policy of setting minimum biobased content specifications for awarding contracts in a manner that ensures that the biobased content of biobased products is consistent with the guidelines issued under 7 U.S.C. 8102, except when the director determines that division (C)(1), (2), or (3) of this section applies.

(C) The director may determine that it is not possible for a biobased product to be purchased in accordance with the biobased product preference program if the director determines that any of the following applies to the product:

(1) The product is not available within a reasonable period of time.

(2) The product fails to meet the performance standards set forth in the applicable specifications for the product.



(3) The price of the product is an unreasonable price. As used in division (C)(3) of this section, "unreasonable price" means either of the following:

(a) The price of the biobased product exceeds the price of a substantially equivalent nonbiobased product.

(b) The price of the biobased product exceeds the fair market value of a substantially equivalent nonbiobased product.

In accordance with rules adopted under this section, the director may determine a percentage that is up to five per cent by which the price of a biobased product may exceed the price or fair market value of a substantially equivalent nonbiobased product without being considered an unreasonable price for the purpose of division (C)(3)(a) or (b) of this section, as applicable. In doing so, the director shall give consideration to the benefits of expanding the use of biobased products.

(D) For any biobased product offered under the biobased product preference program, a vendor shall certify that the product meets the biobased content requirements for the designated item of which the product is an exemplar. Upon request, a vendor shall provide to the director information to verify the biobased content of a biobased product qualifying for purchase in accordance with the program.

(E) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that prescribe all of the following:

(1) The procedures the department of administrative services and other state agencies shall use to give preference to and purchase biobased products in accordance with the program;

(2) The purchasing policy the director adopts under division (B) of this section;

(3) Procedures and guidelines to be used by the director in determining percentages for purposes of division (C) of this section;



(4) Other requirements or procedures that are necessary to implement the biobased product preference program.

(F) The director shall maintain a list of products that qualify as designated items under the biobased product preference program.

(G) When purchasing equipment, material, or supplies, a state institution of higher education shall purchase designated items in accordance with procedures established by the institution.

(H) If, after assessing the functions of designated items, a state agency determines that none of the designated items are functionally capable of meeting a specific need of the agency, the agency shall notify the director of administrative services. If, after assessing the functions of designated items, a state institution of higher education determines that none of the designated items are functionally capable of meeting a specific need of the institution, the institution shall notify both the director of administrative services and the chancellor of the board of regents. The agency or institution then may purchase a nonbiobased product that is functionally capable of meeting that specific need of the agency or institution, as applicable. Such a purchase does not constitute failure to comply with the biobased product preference program or preclude the agency or institution from otherwise participating in the program.

(I) This section does not apply to the purchase of motor vehicle fuel, heating oil, or electricity.

(J) As used in this section, "state institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.