

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### 7 CFR Parts 2902, 3201, and 3202

RIN 0503-AA41

#### BioPreferred Program

**AGENCY:** Office of Procurement and Property Management, USDA.

**ACTION:** Direct final rule.

**SUMMARY:** The U.S. Department of Agriculture (USDA) is taking direct final action to relocate the BioPreferred Program, established under the authority of section 9002 of the Farm Security and Rural Investment Act of 2002 (FSRIA), as amended by the Food, Conservation, and Energy Act of 2008 (FCEA), 7 U.S.C. 81027, from chapter XXIX of title 7 of the Code of Federal Regulations (CFR) to chapter XXXII of title 7 of the CFR.

**DATES:** This rule is effective October 28, 2011. Submit comments on the direct final rule by September 28, 2011. If we receive any timely significant adverse comment, we will withdraw this final rule in part or in whole by publication of a document in the **Federal Register** within 30 days after the comment period ends.

**ADDRESSES:** You may submit comments by any of the following methods. All submissions received must include the agency name and Regulatory Information Number (RIN). The RIN for this rulemaking is 0503-AA41. Also, please identify submittals as pertaining to the "Redesignation of the BioPreferred Program."

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* [biopreferred@usda.gov](mailto:biopreferred@usda.gov). Include RIN number 0503-AA41 and "Redesignation of the BioPreferred Program" on the subject line. Please include your name and address in your message.

- *Mail/commercial/hand delivery:*

Mail or deliver your comments to: Ron Buckhalt, USDA, Office of Procurement and Property Management, Room 361, Reporters Building, 300 7th St., SW., Washington, DC 20024.

- Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA TARGET Center at (202) 720-2600 (voice) and (202) 690-0942 (TTY).

**FOR FURTHER INFORMATION CONTACT:** Ron Buckhalt, USDA, Office of Procurement and Property Management, Room 361, Reporters Building, 300 7th St., SW., Washington, DC 20024; e-mail: [biopreferred@usda.gov](mailto:biopreferred@usda.gov); phone (202) 205-4008. Information regarding the Federal biobased preferred procurement program (one part of the BioPreferred Program) is available on the Internet at <http://www.biopreferred.gov>.

**SUPPLEMENTARY INFORMATION:**

#### I. Background and Purpose of the Final Rule

The USDA BioPreferred Program provides for the preferred procurement of biobased products by Federal agencies as well as a voluntary labeling program for biobased products. The BioPreferred Program was established under the authority of section 9002 of the Farm Security and Rural Investment Act of 2002 (FSRIA), 7 U.S.C. 8102, as amended by the Food, Conservation, and Energy Act of 2008 (FCEA). USDA's Office of Energy Policy and New Uses (OEPNU) began development of the regulatory framework to implement the BioPreferred Program soon after passage of FSRIA and promulgated the "Guidelines for Designating Biobased Products for Federal Procurement" on January 11, 2005. The Guidelines are contained in part 2902 of chapter XXIX of title 7 of the Code of Federal Regulations (CFR) and that chapter is assigned to OEPNU. In addition to the Guidelines, OEPNU completed, and added to part 2902, regulations designating 33 categories of biobased products for Federal procurement preference.

In October, 2008, the regulatory development and implementation efforts for the BioPreferred Program were transferred from OEPNU to USDA's Office of Procurement and Property Management (OPPM).

Subsequent rulemaking actions completed by OPPM (including the additional designations of categories of biobased products for Federal procurement preference (part 2902) and the promulgation of the Voluntary Labeling program for biobased products (part 2904)) have continued to appear in 7 CFR chapter XXIX, even though chapter XXXII of the CFR is assigned to OPPM. This direct final rule will relocate all elements of the BioPreferred Program from chapter XXIX of the CFR to chapter XXXII, as OPPM has sole responsibility for administering the program. USDA is establishing, within chapter XXXII of the CFR, a new part 3201 and relocating all of the regulatory text relating to the Federal procurement preference from part 2902 into the newly created part 3201. In addition, USDA is establishing a new part 3202 and relocating the regulatory text relating to the Voluntary Labeling program from part 2904 into the newly created part 3202.

#### II. Regulatory Information

##### A. Executive Order 12866: Regulatory Planning and Review

This rule has been reviewed under Executive Order 12866. It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866, because its purpose is only to transfer existing regulatory text from one chapter of the CFR to another. Therefore, this rule has not been reviewed by the Office of Management and Budget (OMB).

##### B. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule has been reviewed in accordance with Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and does not contain policies that would have implications for these rights.

##### C. Executive Order 12988: Civil Justice Reform

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. This rule does not preempt State or local laws, is not intended to have retroactive effect, and does not involve administrative appeals.

*D. Executive Order 13132: Federalism*

This rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Provisions of this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various government levels.

*E. Unfunded Mandates Reform Act of 1995*

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, for State, local, and tribal governments, or the private sector. Therefore, a statement under section 202 of UMRA is not required.

*F. Executive Order 12372: Intergovernmental Review of Federal Programs*

For the reasons set forth in the Final Rule Related Notice for 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of the Executive Order 12372, which requires intergovernmental consultation with State and local officials. This program does not directly affect State and local governments.

*G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Today’s rule does not significantly or uniquely affect “one or more Indian tribes, \* \* \* the relationship between the Federal Government and Indian tribes, or \* \* \* the distribution of power and responsibilities between the Federal Government and Indian tribes.”

Thus, no further action is required under Executive Order 13175.

*H. Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 through 3520), the information collection under the BioPreferred Program is currently approved under OMB control numbers 0503–0011 and 0503–0020.

**List of Subjects in 7 CFR Parts 2902, 2904, 3201, and 3202**

Biobased products, Labeling, Procurement.

For the reasons stated in the preamble, the Department of Agriculture amends chapters XXIX and XXXII of title 7 of the Code of Federal Regulations as follows:

**CHAPTER XXXII—OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT**

- 1. Amend title 7 CFR chapter XXXII by establishing parts 3201 and 3202 to read as follows:

**PART 3201—GUIDELINES FOR DESIGNATING BIOBASED PRODUCTS FOR FEDERAL PROCUREMENT**

**PART 3202—VOLUNTARY LABELING PROGRAM FOR BIOBASED PRODUCTS**

**CHAPTER XXIX—OFFICE OF ENERGY POLICY AND NEW USES**

**PART 2902—GUIDELINES FOR DESIGNATING BIOBASED PRODUCTS FOR FEDERAL PROCUREMENT**

- 2. Transfer 7 CFR part 2902, Subpart A—General, §§ 2902.1 through 2902.9

from chapter XXIX to chapter XXXII and redesignate as 7 CFR part 3201, Subpart A—General, §§ 3201.1 through 3201.9.

- 3. Transfer 7 CFR part 2902, Subpart B—Designated Items, §§ 2902.10 through 2902.74 from chapter XXIX to chapter XXXII and redesignate as 7 CFR part 3201, Subpart B—Designated Items, §§ 3201.10 through 3201.74.

**PART 2904—VOLUNTARY LABELING PROGRAM FOR BIOBASED PRODUCTS**

- 4. Transfer 7 CFR part 2904, §§ 2904.1 through 2904.10 from chapter XXIX to chapter XXXII and redesignate as 7 CFR part 3202, §§ 3202.1 through 3202.10.

**CHAPTER XXXII—OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT**

**PART 3201—GUIDELINES FOR DESIGNATING BIOBASED PRODUCTS FOR FEDERAL PROCUREMENT**

- 5. The authority citation for the newly established part 3201 reads as follows:

Authority: 7 U.S.C. 8102.

- 6. In newly redesignated § 3201.9, revise the reference to “§ 2902.8” to read “§ 3201.8”.

**PART 3202—VOLUNTARY LABELING PROGRAM FOR BIOBASED PRODUCTS**

- 7. The authority citation for the newly established part 3202 reads as follows:

Authority: 7 U.S.C. 8102.

- 8. Amend the newly redesignated part 3202 as follows:

Amend:	By removing the reference to:	And adding in its place:
§ 2904.2, definition of “Biobased content”	part 2902	part 3201.
§ 2904.2, definition of “BioPreferred Product”	part 2902	part 3201.
§ 2904.2, definition of “Designated item”	part 2902	part 3201.
§ 2904.2, definition of “Mature market product”	part 2902	part 3201.
§ 2904.4(a)	§ 2904.2	§ 3202.2.
§ 2904.4(b)(1)(i)	part 2902	part 3201.
§ 2904.4(b)(2)(ii)	part 2902	part 3201.
§ 2904.4(b)(3)(iii)	part 2902	part 3201.
§ 2904.5(a)(2)	§ 2904.2	§ 3202.2.
§ 2904.5(b)(2)(i)	§ 2904.4	§ 3202.4.
§ 2904.5(b)(2)(iii)	§ 2904.6	§ 3202.6.
§ 2904.6(c)	§ 2904.5(a)	§ 3202.5(a).
§ 2904.8(a)	§ 2904.6	§ 3202.6.
§ 2904.8(a)	§ 2904.5	§ 3202.5.
§ 2904.8(b)(2)(i)	§ 2904.7	§ 3202.7.
§ 2904.8(c)	§ 2904.6	§ 3202.6.
§ 2904.10(b)	§ 2904.8(b)(1)	§ 3202.8(b)(1).
§ 2904.10(c)	§ 2904.9	§ 3202.9.

Dated: August 17, 2011.  
**Pearlie S. Reed,**  
*Assistant Secretary for Administration, U.S.  
 Department of Agriculture.*  
 [FR Doc. 2011-21694 Filed 8-26-11; 8:45 am]  
**BILLING CODE 3410-93-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2011-0597; Directorate Identifier 2011-CE-019-AD; Amendment 39-16793; AD 2011-18-11]

RIN 2120-AA64

**Airworthiness Directives; Viking Air Limited (Type Certificate No. A-815 Formerly Held by Bombardier Inc. and de Havilland, Inc.)**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are superseding an existing airworthiness directive (AD) for all Viking Air Limited (type certificate No. A-815 formerly held by Bombardier Inc. and de Havilland, Inc.) Model DHC-3 airplanes. That AD currently requires repetitively inspecting the elevator control tabs for discrepancies, taking necessary corrective actions to bring all discrepancies within acceptable tolerances, and reporting certain inspection results to the FAA. This new AD retains the actions currently required in AD 2011-05-02 and removes the Supplemental Type Certificate (STC) SA01059SE condition in the Applicability section. This AD was prompted by our determination that we inadvertently omitted certain airplanes from the Applicability section. We are issuing this AD to correct the unsafe condition on these products.  
**DATES:** This AD is effective October 3, 2011.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of March 31, 2011 (76 FR 10220, February 24, 2011).

**ADDRESSES:** For information about the revisions to the FAA-approved maintenance/inspection program identified in this AD, contact Viking Air Ltd., 9574 Hampden Road, Sidney, BC Canada V8L 5V5; telephone: (800) 663-8444; Internet: <http://www.vikingair.com>. You may review copies of the referenced revisions at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816-329-4148.

**Examining the AD Docket**

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800-647-5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** George Duckett, Aerospace Engineer, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: (516) 228-7325; fax: (516) 794-5531; email: [george.duckett@faa.gov](mailto:george.duckett@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2011-05-02,

Amendment 39-16611 (76 FR 10220, February 24, 2011). That AD applies to the specified products. The NPRM published in the **Federal Register** on June 10, 2011 (76 FR 34011). That NPRM proposed to retain all of the requirements of AD 2011-05-02 and add airplanes to the Applicability section removing the Supplemental Type Certificate (STC) SA01059SE condition.

**Comments**

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

**Conclusion**

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

**Interim Action**

We are continuing to evaluate the cause of the unsafe condition identified in this AD to enable us to obtain better insight into the nature, cause, and extent of excessive free-play in the elevator control tabs. Based on this evaluation, we may consider further rulemaking.

**Costs of Compliance**

We estimate that this AD affects 65 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

**ESTIMATED COSTS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection .....	1 work-hour × \$85 per hour = \$85 per inspection cycle.	Not applicable .....	\$85 per inspection cycle .....	\$5,525 per inspection cycle.

We estimate the following costs to do any necessary follow-on actions that

will be required based on the results of the inspection. We have no way of

determining the number of airplanes that may need this repair/replacement:

**ON-CONDITION COSTS**

Action	Labor cost	Parts cost	Cost per product
Minimum repair .....	1 work-hour × \$85 per hour = \$85 .....	\$50	\$135