

# Biobased Products

This Act defines a “biobased product” and directs the state director of administrative services to establish a Biobased Product Preference Program. The legislation requires state agencies and state institutions of higher education to buy biobased equipment, material, or supplies in accordance with the program. It requires the director of the state administrative services agency to develop rules and procedures state agencies and higher education institutions must use to buy biobased products in accordance with the program. The Act contains provisions allowing these agencies to buy non-biobased products when biobased products are unavailable, fail to meet related performance requirements, or are too expensive.

The Act requires vendors who offer products under the program to certify their products are biobased and provide related information as requested by the state.

Submitted as:

Ohio

[SB 131 \(Enrolled version\)](#)

Status: Enacted into law in 2010.

## Suggested State Legislation

(Title, enacting clause, etc.)

1           Section 1. [*Short Title.*] This Act shall be cited as “The Biobased Products Purchasing  
2 Act.”

3  
4           Section 2. [*Definitions.*] As used in this Act:

5           (A) “Agricultural materials” means agricultural-based materials or residues, including  
6 plant, animal, and marine materials or residues, used in the manufacture of commercial or  
7 industrial nonfood products.

8           (B) “Biobased product” means a product determined by the United States Secretary of  
9 Agriculture to be a commercial or industrial product, other than food or feed, that is composed,  
10 in whole or significant part, of biological products, renewable domestic agricultural materials, or  
11 forestry material, or is an intermediate ingredient or feedstock.

12           (C) “Biological products” means products derived from living materials other than  
13 agricultural or forestry materials.

14           (D) “Designated item” means a generic grouping of biobased products identified in  
15 subpart B, 7 C.F.R. 2902.10 to 2902.42.

16           (E) “Director” means the [director of the state department of administrative services].

17           (F) “Forest thinnings” means woody materials removed from a dense forest to improve  
18 growth, enhance forest health, or remove trees to recover potential mortality.

19           (G) “Forestry materials” means materials derived from the practice of planting and caring  
20 for forests and the management of growing timber where such materials come from short-  
21 rotation woody crops that are [less than ten years old], sustainably managed forests, wood  
22 residues, or forest thinnings.

23           (H) “Intermediate ingredient or feedstock” means a material or compound made, in  
24 whole or in significant part, from biological products, renewable agricultural materials, or  
25 forestry materials that are subsequently used to make a more complex compound or product.

26           (I) “State agencies” [insert list].

27           (J) “State institution of higher education” means an institution as defined under [insert

28 citation].

29 (K) “Sustainably managed forests” means the practice of land stewardship that integrates  
30 the reforestation, management, growing, nurturing, and harvesting of trees for useful products  
31 while conserving soil and improving air and water quality, wildlife, fish habitat, and aesthetics.

32  
33 Section 3. [*Biobased Products Preference Program.*]

34 (A) Not later than [one hundred eighty days] after the effective date of this Act, the  
35 [director] shall establish a Biobased Products Preference Program, which shall ensure that [state  
36 agencies and state institutions of higher education] purchase biobased products by giving a  
37 preference to those designated items that are composed of the highest percentage of biobased  
38 content practicable or that comply with regulations adopted under 42 U.S.C. 6914b-1 by the  
39 Administrator of the United States Environmental Protection Agency.

40 (B) The [director] shall adopt in accordance with [insert citation] guidelines and  
41 procedures the [state agencies and state institutions of higher education] shall use to give  
42 preference to and purchase biobased products in accordance with the program.

43 (C) As part of the program, the [director] shall adopt a policy of setting minimum  
44 biobased content specifications for awarding contracts in a manner that ensures that the biobased  
45 content of biobased products is consistent with the guidelines issued under 7 U.S.C. 8102.

46 (D) For any biobased product offered under the Biobased Products Preference Program, a  
47 vendor shall certify that the product meets the biobased content requirements for the designated  
48 item of which the product is an exemplar. Upon request, a vendor shall provide to the [director]  
49 information to verify the biobased content of a biobased product qualifying for purchase in  
50 accordance with the program.

51 (E) The [director] shall maintain a list of products that qualify as designated items under  
52 the Biobased Product Preference Program.

53 (F) Except as necessary under subsection (G) of this section, when purchasing equipment,  
54 material, or supplies, [state agencies and state institutions of higher education] shall purchase  
55 designated items in accordance with guidelines and procedures established under the Biobased  
56 Products Preference Program established under this Act.

57 (G) The [director] may determine that it is not possible for a biobased product to be  
58 purchased in accordance with the Biobased Products Preference Program if the [director]  
59 determines that any of the following applies to the product:

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

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

63 (3) The price of the product is an unreasonable price. As used in this section,  
64 “unreasonable price” means either of the following:

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

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

69 (4) However, the [director] may determine that the price of a biobased product  
70 may exceed up to [five percent] the price or fair market value of a substantially equivalent  
71 nonbiobased product without being considered an unreasonable price for the purpose of this  
72 section. In doing so, the [director] shall give consideration to the benefits of expanding the use of  
73 biobased products.

74 (H) If, after assessing the functions of designated items offered under the Biobased  
75 Products Preference Program established by this Act, a [state agency] determines that none of the  
76 designated items are functionally capable of meeting a specific need of the agency, that agency

77 shall notify the [director]. If, after assessing the functions of designated items, a [state institution  
78 of higher education] determines that none of the designated items are functionally capable of  
79 meeting a specific need of the institution, that institution shall notify both the [director] and the  
80 [chancellor of the board of regents]. The notifying agency or institution then may purchase a  
81 nonbiobased product that is functionally capable of meeting that specific need of that [state  
82 agency or institution of higher education] without being deemed out of compliance with the  
83 program by the [director] or being precluded from otherwise participating in the program.  
84

85 Section 4. [*Reporting Biobased Product Purchases.*]

86 (A) Not later than [insert date], and the [thirtieth day of September each year] thereafter,  
87 the [director] shall prepare and submit to the [governor, the president of the senate, and the  
88 speaker of the house of representatives] a report describing the number, types, and amount of  
89 money spent by [state agencies] to buy biobased products under the Biobased Products  
90 Preference Program established by this Act.

91 (B) Not later than [insert date], and the [fifteenth day of September each year thereafter],  
92 each [state institution of higher education] shall prepare and submit to the [chancellor of the  
93 board of regents] a report that describes the number, types, and amount of money spent by the  
94 [state institution of higher education] to buy biobased products under the Biobased Products  
95 Preference Program established by this Act.

96 (C) Not later than [insert date], and the [thirtieth day of September each year thereafter],  
97 the [chancellor of the board of regents] shall prepare and submit to the [governor, the president  
98 of the senate, and the speaker of the house of representatives] a report describing the number,  
99 types, and amount of money spent by [state institutions of higher education] to buy biobased  
100 products under the Biobased Products Preference Program established by this Act.  
101

102 Section 5. [*Severability.*] [Insert severability clause.]

103  
104 Section 6. [*Repealer.*] [Insert repealer clause.]

105  
106 Section 7. [*Effective Date.*] [Insert effective date.]