



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1220

[Doc. No. AMS-LPS-18-0015]

Soybean Promotion and Research: Amend the Order to Adjust Representation on the United Soybean Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule will adjust the number of members on the United Soybean Board (Board) to reflect changes in production levels that have occurred since the Board was last reapportioned in 2015. As required by the Soybean Promotion, Research, and Consumer Information Act (Act), membership on the Board is reviewed every 3 years and adjustments are made accordingly. This change will result in an increase in Board membership for five States, increasing the total number of Board members from 73 to 78. These changes will be reflected in the Soybean Promotion and Research Order (Order) and would be effective for the 2019 appointment process.

DATES: This rule is effective as of [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mike Dinkel, (202) 720-0633, Michael.Dinkel@ams.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has waived the review process

required by Executive Order (E.O.) 12866 for this action.

Executive Order 12988

This final rule was reviewed under E.O. 12988, Civil Justice Reform. It is not intended to have a retroactive effect. This action would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1971 of the Act (7 U.S.C. 6306), a person subject to the Soybean Promotion and Research Order (7 CFR part 1220, subpart A (hereinafter referred to as the Order)) may file a petition with USDA stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order is not in accordance with the law and request a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, USDA would rule on the petition. The Act provides that district courts of the United States in any district in which such person is an inhabitant, or has his or her principal place of business, have jurisdiction to review USDA's ruling on the petition if a complaint for this purpose is filed within 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612 et seq.), AMS has considered the economic effect of this final rule on small entities and has determined that this action does not have a significant economic impact on a substantial number of small businesses entities because it only adjusts representation on the Board to reflect changes in production levels that have occurred

since the Board was last reapportioned in 2015. The purposed of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small business will not be unduly burdened.

There are an estimated 515,008 soybean producers and an estimated 10,000 first purchasers who collect the assessment, most of whom would be considered small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.201]. SBA defines small agricultural producers as those having annual receipts of less than \$750,000.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the reporting and recordkeeping requirements included in 7 CFR part 1220 were previously approved by OMB and were assigned control number 0581-0093.

Background and Proposed Changes

The Act (7 U.S.C. 6301-6311) provides for the establishment of a coordinated program of promotion and research designed to strengthen the soybean industry's position in the marketplace, and to maintain and expand domestic and foreign markets and uses for soybeans and soybean products. The program is financed by an assessment of 0.5 percent of the net market price of soybeans sold by producers. Pursuant to the Act, the Order, which established an initial Board with 60 members, became effective July 9, 1991. For purposes of establishing the Board, the United States was divided into 31 States and geographical units. Representation on the Board from each unit was determined by the level of production in each unit. The initial Board was appointed on July 11, 1991. The Board is comprised of soybean producers. Section 1220.201(c) of the

Order provides that at the end of each 3-year period, the Board shall review soybean production levels in the geographic units throughout the United States. The Board may recommend to the Secretary of Agriculture modifications in the levels of production necessary to determine Board membership for each unit.

Section 1220.201(d) of the Order provides that at the end of each 3-year period, the Secretary must review the volume of production of each unit and adjust the boundaries of any unit and the number of Board members from each such unit as necessary to conform with the criteria set forth in §1220.201(e): (1) To the extent practicable, States with annual average soybean production of less than 3 million bushels shall be grouped into geographically contiguous units, each of which has a combined production level equal to or greater than 3 million bushels, and each such group shall be entitled to at least one member on the Board; (2) units with at least 3 million bushels, but fewer than 15 million bushels shall be entitled to one board member; (3) units with 15 million bushels or more but fewer than 70 million bushels shall be entitled to two Board members; (4) units with 70 million bushels or more but fewer than 200 million bushels shall be entitled to three Board members; and (5) units with 200 million bushels or more shall be entitled to four Board members.

The Board was last reapportioned in 2015. The total Board membership increased from 70 to 73 members, with Missouri, New Jersey, and Wisconsin each gaining one additional member. The final rule was published in the Federal Register (80 FR 63909) on October 22, 2015. This change was effective with the 2016 appointments.

This final rule will increase total membership on the Board from 73 to 78, based on production data for years 2013-2017 (excluding the crops in years in which production

was the highest and in which production was the lowest) as reported by USDA’s National Agricultural Statistics Service. This change will not affect the number of geographical units.

This final rule will adjust representation on the Board as follows:

State	Current Representation	Proposed Representation
Alabama	1	2
Kentucky	2	3
North Dakota	3	4
South Dakota	3	4
Tennessee	2	3

Board adjustments will become effective with the 2019 appointment process.

Comments

A proposed rule was published in the Federal Register (83 FR 31477) on July 6, 2018, with a 60-day comment period. USDA received no comments.

List of Subjects in 7 CFR Part 1220

Administrative practice and procedure, Advertising, Agricultural research, Reporting and recordkeeping requirements, Soybeans.

For the reasons set forth in the preamble, 7 CFR part 1220 is amended as follows:

PART 1220--SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR part 1220 continues to read as follows:

Authority: 7 U.S.C. 6301-6311 and 7 U.S.C. 7401.

2. In §1220.201, the table in paragraph (a) is revised to read as follows:

§1220.201 Membership of board.

(a) * * *

Unit	No. of Members
South Dakota	4
Ohio	4
North Dakota	4
Nebraska	4
Missouri	4
Minnesota	4
Iowa	4
Indiana	4
Illinois	4
Wisconsin	3
Tennessee	3
Mississippi	3
Michigan	3
Kentucky	3
Kansas	3
Arkansas	3
Virginia	2
Pennsylvania	2
North Carolina	2
Maryland	2
Louisiana	2
Alabama	2
Texas	1
South Carolina	1
Oklahoma	1
New York	1
New Jersey	1
Georgia	1
Delaware	1
Unit	No. of Members
Eastern Region (Connecticut, Florida, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, West Virginia, District of Columbia, and Puerto Rico).	1

Western Region (Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. . . .	1
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Dated: October 17, 2018.

Bruce Summers,
Administrator.

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