



Agricultural Marketing Service

7 CFR Part 1220

[Document No. AMS-LP-20-0085]

Soybean Promotion and Research: Adjusting Representation on the United Soybean Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would 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 2018. 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 proposed change would result in a decrease in Board membership for one State, decreasing the total number of Board members from 78 to 77. These changes would be reflected in the Soybean Promotion and Research Order (Order) and would be effective with the Secretary of Agriculture's (Secretary) appointments for terms in the year 2022. This proposed rule would also correct the number of States and units to the Order. Technical corrections to the regulations would adjust the number of States and units from 30 to 31.

DATES: Submit comments on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments should be posted online at www.regulations.gov. Comments received will be posted without change, including any personal information provided.

All comments should reference the docket number AMS-LP-20-0085, the date of submission, and the page number of this issue of the **Federal Register**. Comments may also be sent to Sarah Aswegan, Agricultural Marketing Specialist, Research and Promotion Division; Livestock and Poultry Program; AMS; USDA, Room 2627-S, STOP

0251, 1400 Independence Avenue, SW, Washington, D.C. 20250-0251. Comments will be made available for public inspection at the above address during regular business hours or via the Internet at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Sarah Aswegan, Research and Promotion Division, at (515) 201-5190; or by email at Sarah.Aswegan@usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 13563

Executive Orders (E.O.) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule does not meet the definition of a significant regulatory action contained in section 3(f) of E.O. 12866 and is therefore not subject to review by the Office of Management and Budget (OMB).

Executive Order 12988

This proposed rule has been reviewed under E.O. 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

Section 11 of the Act (7 U.S.C. 2910) provides that nothing in the Act may be construed to preempt or supersede any other program relating to soybean promotion organized and operated under the laws of the U.S. or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

Executive Order 13175

This action has been reviewed in accordance with the requirements of E.O. 13175, Consultation and Coordination with Indian Tribal Governments. The review

reveals that this regulation would not have substantial and direct effects on Tribal governments or significant Tribal implications.

Paperwork Reduction Act

In accordance with OMB regulations (5 CFR part 1320) that implement the Paperwork Reduction Act of 1995 (44 U.S.C. part 35), the information collection and recordkeeping requirements contained in the Order and accompanying Rules and Regulations have previously been approved by OMB and were assigned OMB control number 0581-0093.

Background and Proposed Action

The Board was initially appointed on July 11, 1991, pursuant to the provisions of the Act (7 U.S.C. 6301-6311), and the Order (7 CFR Part 1220) issued thereunder. The Order established an initial Board with 60 members, composed of soybean producers. 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.

Reapportionment

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. Section 1220.130 of the Order defines a unit as each State, or group of States, which is represented on the Board. The Board may recommend to the Secretary modification in the levels of production necessary for 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 2018. The total Board membership increased from 73 to 78 members, with Alabama, Kentucky, North Dakota, South Dakota, and Tennessee each gaining one additional member. The final rule was published in the **Federal Register** (83 FR 53365) on October 23, 2018. This change was effective with the 2019 appointments.

This proposed rule would decrease total membership on the Board from 78 to 77. Production data for years 2015-2019 (excluding the crops in years in which production was the highest and in which production was the lowest in each State) as reported by USDA's National Agricultural Statistics Service (NASS). This change would not affect the number of geographical units.

This proposed rule would adjust representation on the Board as follows:

State	Current Representation	Proposed Representation
Alabama	2	1

Board adjustments as proposed by this rulemaking would become effective, if adopted, with the 2022 appointment process.

This proposed rule would also correct the number of States and units to the Order. During a previous reapportionment, the final rule did not account for the change in the number of States and units, as New Jersey production levels met the threshold to separate

from the Eastern Region. Due to that oversight, AMS is making the correction.

Technical corrections to the regulations would adjust the number of States and units from 30 to 31.

Initial Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS considered the economic effect of this action on small entities and determined that this proposed rule would not have a significant economic impact on a substantial number of small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

Effective November 20, 2019, the Small Business Administration (SBA) [13 CFR 121.201] published an interim final rule (84 FR 64013) that adjusts the monetary-based size standards for inflation. As a result of this rule, the size classification for soybean producers changed from sales of \$750,000 or less to sales of \$1,000,000 or less. 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 SBA.

According to USDA's NASS 2017 Census of Agriculture, the number of operations in the United States with soybean production totaled 303,191.¹ The most recent (2017) Census of Agriculture data show that roughly 2 percent of producers with soybean production, or 35,852 operations, have annual receipts of \$1,000,000 or more.² Therefore, the vast majority of soybean producers, 98 percent, would be considered small businesses with the new SBA guidance. It should be noted that producers are only indirectly impacted by the proposed rule.

1 <https://www.nass.usda.gov/AgCensus/index.php>

2 <https://quickstats.nass.usda.gov/results/A2ADD567-7CE0-3063-9BAD-CB6C0D073DDA>

The proposed rule imposes no new burden on the industry, as it only adjusts representation on the Board to reflect changes in soybean production. The adjustments are required by the Order and would result in a decrease in Board membership from 78 to 77.

AMS is committed to complying with E-Government Act of 2002 to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

List of Subjects in 7 CFR Part 1220

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Soybeans and soybean products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, AMS proposes to amend 7 CFR part 1220 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, revise paragraph (a) to read as follows:

§1220.201 Membership of Board.

(a) For the purposes of nominating and appointing producers to the Board, the United States shall be divided into 31 geographic units and the number of Board members from each unit, subject to paragraphs (d) and (e) of this section shall be as follows:

State/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	1
Texas	1
South Carolina	1
Oklahoma	1
New York	1
New Jersey	1
Georgia	1
Delaware	1
Unit	No. of Members
<hr/>	
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

* * * * *

Bruce Summers, Administrator,
Agricultural Marketing Service.

[FR Doc. 2021-07721 Filed: 4/14/2021 8:45 am; Publication Date: 4/15/2021]