



## **Agricultural Marketing Service**

### **7 CFR Part 1220**

**[Doc. No. AMS-LP-23-0079]**

## **Soybean Promotion and Research: Adjustments to Representation on the United Soybean Board**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) proposes to 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 2021. 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. The proposed changes would result in a decrease in Board membership for the State of North Dakota from 4 members to 3 members and an increase in Board membership for the State of New York from 1 member to 2 members, thus the total number of Board members would remain at 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 2025.

**DATES:** Submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments should be posted online at <https://www.regulations.gov>. Comments received will be posted without change, including any personal information provided. All comments should reference the docket number AMS-LP-23-0079, the date of submission, and the page number of this issue of the **Federal Register**. Comments may also be sent to Jason Julian, Agricultural Marketing Specialist; Research and

Promotion Division; Livestock and Poultry Program, AMS, USDA; Room 2092-S, STOP 0249; 1400 Independence Avenue, SW; Washington, D.C. 20250-0249. Comments will be made available for public inspection at the above address during regular business hours or via the Internet at <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Jason Julian, Research and Promotion Division, Telephone: (202) 731-2149; or email at [jason.julian@usda.gov](mailto:jason.julian@usda.gov).

**SUPPLEMENTARY INFORMATION:**

**Executive Orders 12866, 13563, and 14094**

AMS is issuing this proposed rule in conformance with Executive Orders (E.O.) 12866, 13563, and 14094. E.O. 12866, 13563, and 14094 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. E.O. 14094 reaffirms, supplements, and updates E.O. 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means. This proposed action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from E.O. 12866 review.

**Executive Order 13175**

This proposed rule has been reviewed under E.O. 13175 -- Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have Tribal implications. AMS has determined that this proposed rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian

Tribes.

### **Executive Order 12988**

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

The Act (7 U.S.C. § 6309) 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 rulemaking.

### **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): To the extent practicable, (1) 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 1 member on the Board; (2) units with at least 3 million bushels, but fewer than 15 million bushels shall be entitled to 1 board member; (3) units with 15 million bushels or more but fewer than 70 million bushels shall be entitled to 2 Board members; (4) units with 70 million bushels or more but fewer than 200 million bushels shall be entitled to 3 Board members; and (5) units with 200 million bushels or more shall be entitled to 4 Board members.

The Board was last reapportioned in 2021. The total Board membership decreased from 78 to 77 members, with Alabama decreasing one member. The final rule was published in the **Federal Register** (86 FR 61668) on November 8, 2021. This change was effective with the 2022 appointments.

This proposed rulemaking would keep total membership of the Board at 77 members. Production data was used for years 2018-2022 (excluding the crops in years in which production was the highest and in which production was the lowest in each State) was reported by U.S. Department of Agriculture's (USDA) National Agricultural Statistics Service (NASS). This change would not affect the number of geographical units.

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

State	Current Representation	Proposed Representation
New York	1	2
North Dakota	4	3

Board adjustments as proposed by this rulemaking would become effective, if adopted, with the 2025 appointment process.

### **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 rulemaking 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 August 19, 2019, the Small Business Administration (SBA) (13 CFR part 121.201) published an interim final rule (84 FR 34261) 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 413,358 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 2022 Census of Agriculture, the number of operations in the United States with soybean production totaled 270,851.<sup>1</sup> The most recent (2022) Census of Agriculture data show that roughly 19 percent of producers with soybean production, or 52,756 operations, have annual receipts of \$1,000,000 or more.<sup>2</sup> Therefore, most soybean producers, 81 percent, would be considered small businesses

---

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

<sup>2</sup> <https://quickstats.nass.usda.gov/results/F0860BE3-0E1F-33B4-8571-74E2B061CBED>

with the new SBA guidance. It should be noted that producers are only indirectly impacted by the proposed rulemaking.

The proposed rulemaking 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 not result in a change to Board membership, which will remain at 77 members.

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 rulemaking.

#### **List of Subjects in 7 CFR Part 1220**

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

For the reasons set forth in the preamble, the Agricultural Marketing Service 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. Amend § 1220.201 by revising 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:

**Table 1 to Paragraph (a)**

<b>State/Unit</b>	<b>No. of Members</b>
South Dakota	4
Ohio	4
Nebraska	4
Missouri	4
Minnesota	4
Iowa	4
Indiana	4
Illinois	4
North Dakota	3
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
New York	2
Alabama	1
Texas	1
South Carolina	1
Oklahoma	1
New Jersey	1
Georgia	1
Delaware	1
Unit:	
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

\* \* \* \* \*

**Melissa Bailey,**

*Associate Administrator,*

*Agricultural Marketing Service.*