Agricultural Marketing Service, USDA

§ 1220.228 Qualified State Soybean Boards.

(a)(1) Any soybean promotion entity that is authorized by State statute to collect assessments required by State law from soybean producers may notify the Board of its election to be the Qualified State Soybean Board for the State in which it operates so that producers may receive credit pursuant to §1220.223(a)(3) for contributions to such organization. Only one such entity may make such election or be qualified pursuant to paragraph (a)(2) of this section. Such entity, upon making such election, agrees to the following:

(i) To conduct activities as defined in §1220.230 that are intended to strengthen the soybean industry’s position in the marketplace;

(ii) Provide a report describing the manner in which assessments are collected and the procedure utilized to ensure that assessments due are paid;

(iii) Collect assessments paid on soybeans marketed within the State and establish procedures for ensuring compliance with this subpart with regard to the payment of such assessments;

(iv) Remit to the Board each assessment paid and remitted to it, minus authorized credits issued pursuant to §1220.222(c) and credits issued to producers pursuant to §1220.223(a)(3), and other required deductions by the last day of the month following the month in which the assessment was remitted to it unless the Board determines a different date for remittance of assessments;

(v) If the entity is authorized or required to pay refunds to producers, any requests from producers for refunds for contributions to it by the producer following the termination of authority to pay refunds, will be honored by forwarding to the Board that portion of such refunds equal to the amount of credit received by the producer for contributions to it pursuant to §1220.223(a)(3);

(vi) [Reserved]

(vii) Furnish the Board with an annual report by a certified public accountant or an authorized State agency of all funds remitted to such Board pursuant to this subpart; and

(viii) Not use funds it collects pursuant to this subpart to fund plans or projects which make use of any unfair or deceptive acts or practices with respect to the quality, value or use of any product that competes with soybeans or soybean products; and

(ix)(A) Except as otherwise provided in paragraph (a)(1)(ix)(B) of this section, funds collected or received by the Qualified State Soybean Board under this subpart shall not be used in any manner for the purpose of influencing any action or policy of the United States Government, any foreign or State government, or any political subdivision thereof.

(B) The prohibition in paragraph (a)(1)(ix)(A) of this section, shall not apply to—

(I) The communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, and industry information under the Order;

(2) Any action designed to market soybeans or soybean products directly to a foreign government or political subdivision thereof; or

(3) The development and recommendation of amendments to this subpart.

(2) If no entity elects to serve as a Qualified State Soybean Board within a State pursuant to paragraph (a)(1) of

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this section, any State soybean pro-
motion entity that is organized and op-
erating within a State, and receives as-
sessments or contributions from pro-
ducers and conducts soybean or soy-
bean product promotion, research, con-
sumer information, or industry infor-
mation programs, may apply for cer-
tification as the Qualified State Soy-
bean Board for such State so that pro-
ducers may receive credit pursuant to
§ 1220.223(a)(3) for contributions to such
organizations. All provisions of this
subpart applicable to Qualified State Soy-
bean Boards will be applicable to
such entity. The Board shall review
such applications for certification and
shall make a determination as to the
certification of each applicant.

(b) In order for the State soybean en-
tity to be certified by the Board pursu-
ant to paragraph (a)(2) of this section,
as a Qualified State Soybean Board,
the entity must:

(1) Conduct activities as defined in
§ 1220.230 that are intended to strength-
en the soybean industry’s position in
the marketplace;

(2) Submit to the Board a report de-
scribing the manner in which assess-
ments are collected and the procedure
utilized to ensure that assessments due
are paid;

(3) Certify to the Board that such
State entity will collect assessments
paid on soybeans marketed within the
State and establish procedures for en-
suring compliance with this subpart
with regard to the payment of such as-
sessments;

(4) Certify to the Board that such or-
ganization will remit to the Board each
assessment paid and remitted to it, 
minus credits issued pursuant to
§ 1220.223(a)(3) and authorized credits
issued to producers pursuant to
§ 1220.223(a)(3), and other required de-
ductions by the last day of the month
following the month in which the as-
essment was remitted to it unless the
Board determines a different date for
remittance of assessments;

(5)–(6) [Reserved]

(7) Certify to the Board that it will
furnish the Board with an annual re-
port by a certified public accountant or
an authorized State agency of all funds
remitted to such Board pursuant to
this subpart; and

(8) Not use funds it collects pursuant
to this subpart to fund plans or
projects which make use of any unfair
deceptive acts or practices with re-
spect to the quality, value or use of
any product that competes with soy-
beans or soybean products; and

(9)(i) Except as otherwise provided in
paragraph (b)(9)(ii) of this section,
funds collected or received by the
Qualified State Soybean Board under
this subpart shall not be used in any
manner for the purpose of influencing
any action or policy of the United
States Government, any foreign or
State government, or any political sub-
division thereof.

(ii) The prohibition in paragraph
(b)(9)(i) of this section, shall not apply to—

(A) The communication to appro-
priate government officials of informa-
tion relating to the conduct, imple-
mentation, or results of promotion, re-
search, consumer information, and in-
dustry information under this subpart;

(B) Any action designed to market
soybeans or soybean products directly
to a foreign government or political
subdivision thereof; or

(C) The development and rec-
ommendation of amendments to this
subpart.

(c) Notwithstanding any other provi-
sions of this subpart, and provided that
activities of a Qualified State Soybean
Board are authorized under the Act and
this subpart, the Board shall not have the
authority to:

(1) Establish guidelines, regulations,
or rules which would restrict or in-
fringe upon a Qualified State Soybean
Board’s authority to determine admin-
istrative or program expenditure allo-
cations or administrative or program
implementation; and

(2) Direct Qualified State Soybean
Boards to participate or not partici-
pate in program activities or imple-
mentation.

(d) The Board shall establish proce-
dures, after an opportunity for public
comment and subject to approval of
the Secretary, which provide Qualified
State Soybean Boards with a right to
present information to the Board prior
to any determinations relating to non-
participation as a Qualified State Soy-
bean Board following initial election or
§ 1220.229 Influencing governmental action.

(a) Except as otherwise provided in paragraph (b) of this section, funds collected or received by the Board under this subpart shall not be used in any manner for the purpose of influencing any action or policy of the United States Government, any foreign or State government, or any political subdivision thereof.

(b) The prohibition in paragraph (a) of this section shall not apply to—

(1) The development and recommendation of amendments to this subpart;

(2) The communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, and industry information under this subpart; or

(3) Any action designed to market soybeans or soybean products directly to a foreign government or political subdivision thereof.

§ 1220.230 Promotion, research, consumer information, and industry information.

(a) The Board shall receive and evaluate, or on its own initiative, develop and submit to the Secretary for approval any plans or projects authorized in this subpart. Such plans or projects shall provide for:

(1) The establishment, issuance, effectuation, and administration of appropriate promotion, research, consumer information, and industry information activities with respect to soybean and soybean products;

(2) The establishment and conduct of research, and studies with respect to the sale, distribution, marketing and utilization of soybean and soybean products and the creation of new products thereof, to the end that marketing and utilization of soybean and soybean products may be encouraged, expanded, improved or made more acceptable; and

(3) Such other activities as are authorized by the Act and this subpart.

(b) Each plan or project described in paragraph (a) of this section, shall be periodically reviewed or evaluated by the Board to ensure that each such plan or project contributes to an effective program of promotion, research, consumer information, and industry information. If it is found by the Board that any such plan or project does not further the purposes of the Act, then the Board shall terminate such plan or project.

(c) No such plans or projects shall make use of unfair or deceptive acts or practices with respect to the quality, value or use of any competing product. In carrying out any plan or project funded by the Board described in paragraph (a) of this section, no preference shall be given to a brand or trade name of any soybean product without the approval of the Board and the Secretary.

REPORTS, BOOKS, AND RECORDS

§ 1220.241 Reports.

Each producer marketing processed soybeans or soybean products of that producer’s own production and each first purchaser responsible for the collection of assessments under §1220.223 shall be required to report to the Board periodically such information as may be required by the regulations recommended by the Board and approved by the Secretary. Such information may include but not be limited to the following:

(a) The number of bushels of soybeans purchased, initially transferred, or which, in any other manner, is subject to the collection of assessment;

(b) The amount of assessments remitted;

(c) The basis, if necessary, to show why the remittance is less than one-half percent (0.5%) of the net market price per bushel of soybeans purchased multiplied by the number of bushels purchased; and

(d) The date any assessment was paid.

§ 1220.242 Books and records.

(a) Except as provided in paragraph (b) of this section, each person who is subject to this subpart shall maintain