

**§ 1220.222**

**7 CFR Ch. XI (1-1-08 Edition)**

(e) To encourage the coordination of programs of promotion, research, consumer information, and industry information 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.

**EXPENSES AND ASSESSMENTS**

**§ 1220.222 Expenses.**

(a) The Board is authorized to incur such expenses (including provision for a reasonable reserve) as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. However, during any fiscal year, expenses incurred by the Board for administrative staff costs and their benefits shall not exceed 1 percent of the projected level of assessments, net of projected refunds, of the Board for that fiscal year. Such expenses shall be paid from assessments received pursuant to § 1220.223. The administrative expenses of the Board, including the cost of administrative staff, shall not exceed 5 percent of the projected level of assessments, net of projected refunds, of the Board for that fiscal year.

(b) The Board shall reimburse the Secretary, from assessments received pursuant to § 1220.223, for administrative costs incurred after an Order has been submitted to the Department pursuant to section 1968(b) of the Act; Provided, that the Board shall only be required to reimburse the Secretary for one-half (50%) of the costs incurred by the Secretary to conduct the refund referendum relating to continuation of authority to pay refunds.

(c)(1) The Board may, with the approval of the Secretary, authorize a credit to Qualified State Soybean Boards of up to 5 percent of the amount to be remitted to the Board pursuant to § 1220.223 and § 1220.228 of this subpart to offset collection and compliance costs relating to such assessments and for fees paid to State governmental agencies or first purchasers for collection of the assessments where the payment of such fees by the Qualified

State Soybean Board is required by State law enacted prior to November 28, 1990.

(2) The portion of the credit authorized in paragraph (c)(1) of this section which compensates Qualified State Soybean Boards for fees paid to State governmental agencies or first purchasers for collection of the assessments where the payment of such fees by the Qualified State Soybean Board is required by State law enacted prior to November 28, 1990:

(i) Shall not exceed one-half of such fees paid to State governmental agencies or first purchasers, and;

(ii) Shall not exceed 2.5 percent of the amount of assessments collected and remitted to the Board.

(3) Except for that portion of the credit issued pursuant to paragraph (c)(2) of this section, credits authorized by paragraph (c)(1) of this section will be included as part of the Board's administrative expenses.

**§ 1220.223 Assessments.**

(a)(1) Except as prescribed by regulations approved by the Secretary or as otherwise provided in this section, each first purchaser of soybeans shall collect an assessment from the producer, and each producer shall pay such assessment to the first purchaser, at the rate of one-half of one percent (0.5%) of the net market price of the soybeans purchased. Each first purchaser shall remit such assessment to the Board or to a Qualified State Soybean Board, as provided in paragraph (a)(5) of this section.

(2) Any producer marketing processed soybeans or soybean products of that producer's own production, shall remit to a Qualified State Soybean Board or to the Board, as provided in paragraph (a)(5) of this section, an assessment on such soybeans or soybean products at a rate of one-half of one percent (0.5%) of the net market price of the soybeans involved or the equivalent thereof.

(3) In determining the assessment due from each producer under paragraph (a)(1) or (a)(2) of this section, a producer who is contributing to a Qualified State Soybean Board shall

receive a credit from the Board for contributions to such Qualified State Soybean Board on any soybeans assessed under this section in an amount not to exceed one-quarter of one percent of the net market price of the soybeans assessed.

(4) In order for a producer to receive the credit provided for in paragraph (a)(3) of this section, the Qualified State Soybean Board or the first purchaser must establish to the satisfaction of the Board that the producer has contributed to a Qualified State Soybean Board.

(5)(i) If the soybeans, for which an assessment is paid, were grown in a State other than the State which is the situs of the first purchaser, the first purchaser that collects the assessment shall remit the assessment and information as to the State of origin of the soybeans to the Qualified State Soybean Board operating in the State in which the first purchaser is located. The Qualified State Soybean Board operating in the State in which the first purchaser is located shall remit such assessments to the Qualified State Soybean Board operating in the State in which the soybeans were grown. If no such Qualified State Soybean Board exists in such State, then the assessments shall be remitted to the Board. The Board, with the approval of the Secretary, may authorize Qualified State Soybean Boards to propose modifications to the foregoing "State of Origin" rule to ensure effective coordination of assessment collections between Qualified State Soybean Boards.

(ii)(A) If a producer pledges soybeans grown by that producer as collateral for a loan issued by the Commodity Credit Corporation and if that producer forfeits said soybeans in lieu of loan repayment, the Commodity Credit Corporation shall at the time of the loan settlement, collect from the producer the assessments due based on 0.5 percent of the principal loan amount received by the producer and remit the assessment to the Qualified State Soybean Board in the State in which the soybeans were pledged, or if no Qualified State Soybean Board exists in such State, the Board.

(B) If a producer redeems and subsequently markets soybeans which have

been pledged as collateral for a loan issued by the Commodity Credit Corporation, the first purchaser shall collect and remit the assessments due pursuant to paragraph (a)(1) of this section; or if a producer markets such soybeans as processed soybeans or as soybean products, the producer shall remit the assessment pursuant to paragraph (a)(2) of this section.

(iii) Qualified State Soybean Boards and the Board shall coordinate assessment collection procedures to ensure that producers marketing soybeans are required to pay only one assessment per bushel of soybeans and collections are adjusted among States on a mutually agreeable basis.

(b) The collection of assessments pursuant to paragraph (a) of this section, shall commence on and after the date assessments are required to be paid and shall continue until terminated by the Secretary. If the Board is not constituted on the date the first assessments are to be collected, the Secretary shall have the authority to receive the assessments on behalf of the Board, and to hold such assessments until the Board is constituted, then remit such assessments to the Board.

(c)(1) Each person responsible for the collection of assessments under paragraph (a) of this section, shall collect and remit the assessments to the Board or a Qualified State Soybean Board on a monthly basis or as required by State law, but no less than quarterly, unless the Board, with the approval of the Secretary, has specifically authorized otherwise.

(2) Any unpaid assessments due the Board or a Qualified State Soybean Board from a person responsible for remitting assessments to the Board or a Qualified State Soybean Board pursuant to paragraph (a) of this section, shall be increased two percent (2%) each month beginning with the day following the date such assessments were due under this subpart. Any remaining amount due shall be increased at the same rate on the corresponding day of each month thereafter until paid.

(3) The amounts payable pursuant to this section shall be computed monthly

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on unpaid assessments and shall include any unpaid late charges previously applied pursuant to this section.

(4) For the purpose of this section, any assessment that was determined at a date later than prescribed by this subpart because of a person's failure to submit a report to the Board or a Qualified State Soybean Board when due, shall be considered to have been payable by the date it would have been due if the report had been filed when due.

(d) Prior to the continuance referendum, the Board, pursuant to procedures approved by the Secretary, shall ensure that each Qualified State Soybean Board is provided credit in accordance with the provisions of section 1969(n)(1) and subject to section 1969(n)(3) of the Act.

(e) Following the continuance referendum, the Board, pursuant to procedures approved by the Secretary, shall ensure annually that each Qualified State Soybean Board is provided credit in accordance with the provisions of section 1969(n)(2) and subject to section 1969(n)(3) of the Act.

[56 FR 31049, July 9, 1991, as amended at 56 FR 42923, Aug. 30, 1991; 57 FR 31096, July 14, 1992]

**§§ 1220.224–1220.227 [Reserved]**

**§ 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 col-

lected 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—