



1400 Independence Avenue, SW
Room 2055-S, STOP 0201
Washington, D.C. 20250-0201

August 15, 2024

Frances Cheng, Ph.D.
Chief Scientist
International Laboratory Methods Laboratory Investigations Department
People for the Ethical Treatment of Animals
501 Front Street
Norfolk, VA 23510

Dear Dr. Cheng:

The Agricultural Marketing Service (AMS) has completed its review of the April 10, 2024, petition you submitted on behalf of the People for the Ethical Treatment of Animals (PETA) requesting that the United States Department of Agriculture's (USDA) AMS commence rulemaking proceedings to prohibit assessments collected by research and promotion (R&P) commodity boards from being used to fund experiments on animals for certain agricultural products.

Since 1966, Congress has authorized industry-funded R&P commodity boards to provide a framework for agricultural industries to pool their resources and combine efforts to develop new markets, strengthen existing markets and conduct important research and promotion activities. AMS provides oversight, paid for by industry assessments, which helps ensure fiscal accountability and program integrity. In order to apply and enforce the legislative and regulatory provisions of checkoff acts and orders and promote consistency in oversight of all commodity promotion and research programs, AMS and the R&P commodity boards follow written and approved guidelines. These are posted online at: [Guidelines for AMS Oversight of Commodity Research and Promotion Programs \(pdf\)](#)

The Federal statutes which provide the authority for the collection and expenditure of funds also mandate that the Secretary of Agriculture appoint the board members and approve the R&P commodity boards' budgets, plans, projects, and contracts (including what research projects to fund, subject to AMS approval). The R&P commodity boards' staff and appointed membership determine the direction of, and carry out, board programs.

AMS' role is one of oversight – to ensure compliance with all applicable legislation, regulations, and policies. In this role, AMS ensures that the R&P commodity boards are complying with the above-mentioned Guidelines for AMS Oversight of Commodity Research and Promotion Programs ("Guidelines"). The Guidelines provide extensive parameters for the R&P commodity boards when it comes to health claims. The USDA follows the policies and guidance issued by the Federal Drug Administration and the Federal Trade Commission regarding authorized health claims and qualified health claims used in marketing and nutrition related materials. Thus,

health claims made in the boards' advertising and other marketing should be supported by competent and reliable scientific evidence, consistent with the larger body of scientific evidence, adequately qualified as necessary to clearly communicate any significant limitations on the supporting science and are truthful and not misleading and in accordance with all applicable laws.

Additionally, the R&P programs contract with various academic institutions and research focused organizations who ensure the laboratories adhere to various animal welfare statutes, regulations and policies such as the Animal Welfare Act, Institutional Animal Care and Use Committee, Guide for the Care and Use of Laboratory Animals, Public Health Service Policy on Human Care and Use of Laboratory Animals, Interagency Collaborative Animal Research Education, and Office of Laboratory Animal Welfare.

Animal testing funded by assessments under the respective R&P programs is not statutorily prohibited. Further, none of the authorizing statutes for these seven R&P programs identified in your petition require procedures or regulations addressing animal testing. The R&P commodity boards have the discretion to implement animal welfare testing protocols, including prohibiting animal testing, but such a mandate through rulemaking does not fall under the authorizing statutes nor AMS' oversight responsibilities. Further, AMS does not find your supporting material to demonstrate that the R&P programs' use of animal testing to impede the purpose of the R&P commodity boards' respective Orders.

For these reasons, AMS has denied your petition for rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Porter".

Jennifer Porter
Deputy Administrator
Livestock & Poultry

A handwritten signature in black ink, appearing to read "Christopher Purdy".

Christopher Purdy
Deputy Administrator
Specialty Crops Program