



December 10, 2014

Beef Promotion, Research, and Information Order  
Research and Promotion Division  
Livestock, Poultry, and Seed Program  
Agriculture Marketing Service  
USDA  
Room 2096-S, Stop 0249  
1400 Independence Ave. SW  
Washington, C.C. 20250-0249

RE: Doc. No. AMS-LP-14-0081

Dear Secretary Vilsack,

I'm writing on behalf of the Livestock Marketing Association (LMA) to provide feedback on the questions posed regarding creating a Beef Promotion, Research, and Information Order under the Commodity, Promotion, Research, and Consumer Information Act of 1996.

The LMA is the leading national trade organization for more than 800 livestock marketing businesses located throughout the United States. We represent more than 75 percent of the regularly selling local livestock auction markets. Approximately 36 million head of cattle are sold at livestock markets each year, making the markets a major collector of the dollar remitted to state beef councils under the current Beef Checkoff. For example, approximately 80 percent of the Checkoff funds in Tennessee and 60 percent of the funds in Oklahoma are collected at livestock markets.

The first priority of LMA is a healthy livestock industry in the United States. We recognize the important role that the current Beef Checkoff has in beef promotion, education, and research. We also recognize that any changes to this program, or the creation of an additional program, have the potential to have a significant effect on the beef industry in the United States. Because of this, we are extremely interested in this topic and continue to invest time and resources as an active member of the Beef Checkoff Enhancement Working Group.

Our foundational belief is that any Checkoff program in the United States must be shaped and driven by the livestock industry and especially the producers paying into the program. We have concerns about the creation of a second Checkoff, as we have not experienced industry support for the creation of a second program. Additionally, the Beef Checkoff Enhancement Working Group continues to meet regarding changes to the current program, including a referendum vote to increase assessment rate. We have seen positive movement from this group in the last six

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months. Because of this, we believe that acting now, while the working group and the respective member organizations are finalizing an alternative solution, would be premature.

Additionally, two separate Checkoff programs would increase operational costs and could lead to divergent messages and strategy. From a collection standpoint, there is a risk that two programs will create unnecessary confusion in the collection of funds, especially if monies are collected in different circumstances and sent different places.

Due to these concerns, our strong preference is that USDA does not proceed with creating a second Beef Checkoff. However, if a second Checkoff is created, the program must be formatted in a way that maximizes producer control and minimizes difficulty in collections. It is following these guiding principals we provide the following feedback to the questions asked.

### **1. Who should be assessed?**

The current Checkoff, which assesses owners of cattle, is the preferable method. Livestock producers have a vested interest in the future of their industry and should be at the heart of any Checkoff program through their investment.

We recognize that the definition of “first handler” under the 1996 Act gives USDA the option to assess the person who takes possession of an agricultural commodity for marketing rather than the buyer. We do not believe this would be the most productive model for assessments. Cattle are marketed a variety of ways. While many transactions have an in-between entity, such as a livestock market, some transactions are only between the two parties. All of these transactions are similar in that they include a buyer and seller as the owners of the livestock. Therefore, we believe an assessment on owners of livestock, rather than on entities taking possession of livestock for marketing, would be the most equitable way to share the costs of a Checkoff program across the industry.

Similarly, the LMA would have concerns if the entities assessed under the new program, and the situations in which they are assessed, varied significantly from the existing Checkoff. For example, we would not want to see a program where a second Checkoff is only assessed against the first buyer of an animal and not assessed when that animal is subsequently sold again. Livestock markets do not want to be in the business of determining whether or not an animal is selling for the first time. Additionally, Checkoffs with a “pass through” collection mechanism do not work well for livestock markets. In a pass through system, each seller gives the buyer their portion of the Checkoff assessment and the person with possession at the end of life pays the assessment for all owners of the animals. Pass through systems create confusion and additional accounting work with markets debiting sellers and crediting buyers. A better approach would be for the assessment to occur every time an animal is sold, as it is in the current program.

Additionally, there are exemptions in the current program that the LMA would want to see consistently offered in any new Checkoff program. In particular, buyers who resell cattle no more than 10 days from the date of purchase may file a non-producer status form and avoid paying an additional dollar. This is equitable as entities utilizing this exemption are not acting as

producers of animals but rather as dealers marketing the animals. It would be unfair to expect dealers in a short-term ownership situation to pay in at the same rate of others who own the animals for a significant amount of time in the capacity of a producer raising or feeding out the animals. Also, it also would increase confusion if exemptions were not consistent and markets collected two Checkoff assessments from some producers and just one from others.

## **2. What should be the board structure?**

The board must consist exclusively of individuals with a vested interest in the U.S. beef cattle industry. One way this can be determined is to require board members to be producers paying into the Beef Checkoff program.

## **3. How should the board be selected?**

The cattle industry must play an active role in nominating board members as well as selecting board members for key leadership roles. We see a potential opportunity for existing Beef Checkoff Enhancement Working Group members to play a role in this process.

## **4. What should be the powers and duties of the board?**

The Board must hold the key decision-making powers in the program, especially the power to approve contract-funding decisions.

## **5. Who has decision-making authority?**

Again, the Board must hold key decision-making authority. If a smaller body elected within the board makes contract-funding decisions, these decisions must be brought before the board for ratification.

If two Checkoff programs exist, collaboration between the two programs will be essential to avoid duplicative or divergent efforts. Because of this, the Board of the new Checkoff would need to make funding and strategic decisions with other organizations, including the current Cattlemen's Beef Promotion and Research Board.

## **6. How should the assessment rate be determined?**

Cattle producers should vote on the assessment rate in the creation of a new program. Additionally, cattle producers should have a subsequent vote on any change to this assessment rate.

If the assessment is collected each time animals are sold, a specified flat rate amount is preferable to a percentage value. This would reduce burden on collection points such as markets as the mechanisms for collecting flat rate amounts are already in place.

## **7. How should assessments be collected?**

Generally, markets agree industry has grown accustomed to the current system with the Checkoff collected at time of sale. This system works well. However, in order for this collection method to function smoothly with a second Checkoff, the instances in which Checkoff funds are collected would need to remain consistent with the current program.

State involvement is key. A state entity, such as the existing state beef councils, should receive the funds and have the opportunity to retain a significant portion of these funds at the state level.

## **8. When should the referenda be conducted?**

LMA believes strongly that a referendum vote of cattle producers should be taken prior to the collection of an additional Checkoff. This is the only way to gauge support and allow producers to truly control the program they fund.

We appreciate the opportunity to provide feedback on these important questions. If you have any questions about our responses or if there is additional information we can provide, please let us know. I may be reached at [dan@holtonlivestock.com](mailto:dan@holtonlivestock.com) or 785-364-4114. LMA staff is also happy to discuss this topic and ways we can be helpful. Staff contact for this topic is Chelsea Good, LMA VP of Government and Industry Affairs. She may be reached at [cgood@lmaweb.com](mailto:cgood@lmaweb.com) or 816-305-9540.

Sincerely,



Dan Harris  
LMA President