



USDA Withdraws Unlawful RFID Guideline After NCLA Files Lawsuit

R-CALF USA v. United States Department of Agriculture, et al.

WASHINGTON, DC— The New Civil Liberties Alliance is pleased that USDA’s Animal and Plant Health Inspection Service (APHIS) has announced that it does not currently intend to implement the Radio Frequency Identification (RFID) guidelines after NCLA filed a [complaint](#) against the agency on Oct. 4, 2019 in the federal district court in Casper, Wyo.

NCLA’s complaint challenged USDA’s April 2019 RFID guidelines entitled, [“Factsheet Advancing Animal Disease Traceability: A Plan to Achieve Electronic Identification in Cattle and Bison.”](#) alleging that the agency had acted beyond the scope of its legal authority by adopting regulatory guidance that contradicts the animal identification rule issued in 2013.

APHIS quietly removed the guidance document outlining the type of identification devices that USDA-APHIS would regard as official eartags and the dates by which they must be applied to cattle from its website last week without prior notice after they were served with NCLA’s lawsuit. APHIS issued a press release on its website stating that the document “is no longer representative of current agency policy.” The agency also stated that it had listened to the livestock industry’s feedback and that it will “revisit the guidelines.”

The decision also comes on the heels of recent Executive Orders from President Trump that created new, stricter requirements for issuing guidance. Since July of 2018, NCLA has filed 21 [anti-guidance petitions](#) requesting that federal agencies stop promulgating and enforcing guidance that purports to legally bind individual Americans and small businesses.

“USDA knew from the outset that it did not have the legal authority to impose an RFID-only system on our livestock industry. Upon being challenged by NCLA it appears that it may be reversing course, only recently announcing that it is withdrawing its RFID requirements. I want to thank our clients for being willing to stand up to the federal government and protect the rights of all of our producers.” –**Harriet Hageman, Senior Litigation Counsel**

NCLA represents the Ranchers Cattlemen Action Legal Fund United Stockgrowers of America (R-CALF USA) and four ranchers: Tracy and Donna Hunt from Wyoming, and Kenny and Roxy Fox from South Dakota, who are challenging the guidelines for violating current traceability regulations, the Administrative Procedure Act (APA), the Federal Advisory Committee Act (FACA) and the Regulatory Flexibility Act (RFA).

Visit [Case Summary page here](#).

ABOUT NCLA

NCLA is a nonprofit civil rights organization founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the administrative state. NCLA's public-interest litigation and other pro bono advocacy strive to tame the unchecked power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans' fundamental rights. For more information visit us online: NCLAlegal.org.

Media Inquiries:

Please contact Judy Pino

202-869-5218

Judy.pino@ncla.legal