

EXHIBIT 1

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ATTORNEYS FOR PETITIONERS/PLAINTIFFS

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

RANCHERS CATTLEMEN ACTION)	
LEGAL FUND UNITED)	
STOCKGROWERS OF AMERICA;)	
TRACY and DONNA HUNT, d/b/a THE MW)	
CATTLE COMPANY, LLC; and KENNY and)	
ROXY FOX,)	No. 19-CV-205-F
)	
Petitioners/Plaintiffs,)	
)	
vs.)	
)	
UNITED STATES DEPARTMENT OF)	
AGRICULTURE; ANIMAL AND PLANT)	
HEALTH INSPECTION SERVICE;)	
SONNY PERDUE, in his official)	
capacity as the Secretary of Agriculture;)	
and KEVIN SHEA, in his official)	
capacity as Administrator of the Animal)	
and Plant Health Inspection Service,)	
)	
Respondents/Defendants.)	

AFFIDAVIT OF KARA M. ROLLINS

I, Kara M. Rollins, hereby declare and state as follows:

1. I am an attorney for the New Civil Liberties Alliance, counsel for Petitioners/Plaintiffs Ranchers Cattlemen Action Legal Fund United Stockgrowers of America (“R-CALF USA”); Tracy and Donna Hunt, d/b/a The MW Cattle Company, LLC (“Hunt”); and Kenny and Roxy Fox (“Fox”). The Following facts are based on my own personal knowledge and, if called as a witness, I could and would testify competently thereto.

2. On March 23, 2020, at the request and direction of Harriet M. Hageman, attorney of record for Petitioners/Plaintiffs, I submitted a request to the Animal and Plant Health Inspection Service (“APHIS”) of the U.S. Department of Agriculture (“USDA”) pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, seeking records from or related to, *inter alia*, USDA’s 2019 guidance mandating use of RFID eartags, the Cattle Traceability Working Group (“CTWG”), and certain individuals employed by either APHIS or USDA. A true and correct copy of the March 23, 2020 email to the USDA/APHIS FOIA Officer transmitting the FOIA request and the FOIA request are provided as “Attachment A” to this Affidavit.

3. On March 25, 2020, I received an email and letter from USDA/APHIS acknowledging receipt of the FOIA request and assigning it tracking # 2020-APHIS-03179-F. A true and correct copy of the March 25, 2020 email and acknowledgment letter are provided as “Attachment B” to this Affidavit.

4. On July 24, 2020, the USDA/APHIS FOIA Officer released a first partial response to the March 23, 2020 FOIA request. The first partial response letter stated that the release included 200 pages of responsive records released in their entirety and that an additional 17 pages of responsive records were withheld in their entirety under FOIA Exemption 5, 5 U.S.C.

§ 552(b)(5). A true and correct copy of the first partial response letter is provided as “Attachment C” to this Affidavit.

5. Since the receipt of the released records on July 24, 2020, I have reviewed the 200 pages of responsive documents and compared them, using document identifiers including language, provided dates, formatting, etc., to the documents provided in the Administrative Record for this matter. Upon review of the records, and on information and belief, none of the records released subject to the March 23 FOIA request are included in the Administrative Record.

6. On information and belief, the USDA/APHIS FOIA Officer is continuing to identify and review records responsive to the March 23 FOIA request. Releases of additional responsive documents are anticipated in the future.

Pursuant to 28 U.S.C. § 1746: I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 14th day of August 2020, in Washington, DC.

Kara Rollins

Kara M. Rollins
Litigation Counsel
New Civil Liberties Alliance

Attachment A

**March 23, 2020 Email and FOIA Request Letter
to USDA/APHIS**

Kara Rollins

From: Kara Rollins
Sent: Monday, March 23, 2020 2:53 PM
To: FOIA.Officer@aphis.usda.gov
Subject: Freedom of Information Act Request
Attachments: 2020.03.23 FOIA request to APHIS re Traceability.pdf

Ms. Woods,

Please see the attached FOIA request. If you have any questions, don't hesitate to contact me.

Kind regards,

Kara



Kara Rollins
Litigation Counsel
New Civil Liberties Alliance
1225 19th Street NW, Suite 450
Washington, DC 20036
Direct: (202) 908-6203
kara.rollins@NCLA.legal

 New Civil Liberties Alliance

March 23, 2020

Ms. Tonya Woods
FOIA/PA Officer
U.S. Department of Agriculture
Animal and Plant Health Inspection Service
4700 River Road, Unit 50
Riverdale, Maryland 20737-1232
FOIA.Officer@aphis.usda.gov

SUBMITTED VIA EMAIL.

RE: Freedom of Information Act Request

Dear Ms. Woods:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, the New Civil Liberties Alliance (NCLA) requests access to the following records of the Cattle Traceability Working Group and any other working groups that have addressed Animal Disease Traceability issues in the cattle industry—including, but not limited to, email, instant messaging, text messages, handwritten notes, other communications made for official purposes, reports, and calendars—sent or received by certain U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) personnel. The time period of this request is January 1, 2017 to the present.¹ NCLA seeks the records described above from the following individuals²:

1. Dr. Aaron E. Scott (Aaron.E.Scott@aphis.usda.gov);
2. Dr. Sarah M. Tomlinson (Sarah.M.Tomlinson@aphis.usda.gov);
3. Dr. Jack A. Shere (Jack.A.Shere@aphis.usda.gov);
4. Dr. Sunny Geiser-Novotny; and
5. Neil Hammerschmidt (Neil.E.Hammerschmidt@aphis.usda.gov).³

Responsive search terms may include, but are not limited to, “RFID,” “eartag,” “ear tag,” “factsheet,” “timeline,” “traceability,” “Cattle Traceability Working Group,” “CTWG,” “Stock Growers,”

¹ For purposes of this request, the term “present” should be construed as the date on which the agency begins its search for responsive records. See *Pub. Citizen v. Dep’t of State*, 276 F.3d 634 (D.C. Cir. 2002). The term “record” means the entirety of the record any portion of which contains responsive information. See *Am. Immigration Lawyers Ass’n v. Exec. Office for Immigration Review*, 830 F.3d 667, 677 (D.C. Cir. 2016).

² Emails have been provided if known, but any search for responsive records should include all .gov email addresses associated with the identified individuals.

³ At some point during the time period of the request Neil Hammerschmidt left his position as Manager of Animal Disease Traceability for APHIS, NCLA is interested in responsive records in his possession while working for APHIS as well as responsive records in the possession of Aaron E. Scott, Sarah M. Tomlinson, and Jack A. Shere that involve or refer to Neil Hammerschmidt after his departure from APHIS.

“Stockgrowers,” “National Institute for Animal Agriculture,” “NIAA,” “USDA/NIAA,” “U.S. Animal Health Association,” “USAHA,” “Animal ID Working Group,” “U.S. CattleTrace,” “CattleTrace,” “USCT,” “Neil Hammerschmidt,” “nhammerhead@gmail.com,” “Glenn Fischer,” “gfischer@allflexusa.com,” “Joe Leathers,” “jleathers@6666ranch.com,” “Jim Halverson,” “Halverson,” “Kenny Fox,” “Silvia Christian,” “R-CALF USA,” and “R-CALF.” Responsive records may also refer to certain events including the 2019 NIAA Annual Conference held in Des Moines, Iowa from April 8-11, 2019⁴, the 2018 Strategy Forum on Livestock Traceability held in Kansas City, Missouri from September 25-26, 2018, and the Strategy Forum on Livestock Traceability held in Denver, Colorado from September 26-27, 2017. In addition, any records discussing or suggesting the disbanding of the Cattle Traceability Working Group (CTWG) or transferring its responsibilities to new or different committees are also responsive.

NCLA requests a reduction of any and all applicable fees. The FOIA and USDA regulations provide that the Commission shall furnish requested records without or at reduced charge if “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” *See* 5 U.S.C. § 552(a)(4)(A)(iii); 7 C.F.R. App. A to Subpart A of Pt. 1 § 2(b)(5).

NCLA is a nonpartisan, nonprofit public-interest organization with a scholarly interest in the records sought.⁵ NCLA is seeking these records to develop a more precise understanding of the Agency’s attempt to use a guidance document to mandate that cattle producers, who seek to sell across state lines, tag their livestock with RFID ear tags.⁶ NCLA intends to use its expertise to review, analyze, and publicize its findings.

NCLA is willing to pay up to \$250.00 in fees for the records. If it is determined that the processing costs will exceed that amount, please contact me with an estimate of the fees.

If practicable, please provide the responsive documents in electronic form in lieu of a paper production. If a portion of the responsive records can be produced more readily, NCLA requests that those records be produced first and the remaining records be produced on a rolling basis.

If you have any questions about this request, please contact me by telephone at (202) 908-6203 or by email at Kara.Rollins@ncla.legal. Thank you for your attention to this matter.

Sincerely,



Kara Rollins, Litigation Counsel

⁴ *2019 Annual Conference*, NAT’L INST. FOR ANIMAL AGRICULTURE, <https://animalagriculture.org/2019-AnnualConference> (last visited Mar. 20, 2020).

⁵ *See generally* NCLA Petition for Rulemaking (Jan. 25, 2019) available at <https://nclalegal.org/wp-content/uploads/2019/01/Petition-for-Rulemaking-Dept.-of-Agriculture.pdf>.

⁶ *R-CALF USA v. United States Department of Agriculture, et al.*, NEW CIVIL LIBERTIES ALLIANCE, <https://nclalegal.org/r-calf-usa-v-united-states-department-of-agriculture/> (last visited Mar. 20, 2020).

Attachment B

**March 25, 2020 Email and Acknowledgment Letter
from USDA/APHIS**

Kara Rollins

From: shirley.a.boyd@usda.gov
Sent: Wednesday, March 25, 2020 11:54 AM
To: Kara Rollins
Subject: APHIS Ack Letter - 2020-APHIS-03179-F
Attachments: 20-031379-F2.pdf; APHIS Ack Letter.pdf

March 25, 2020

Dear Kara Rollins

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request dated **March 23, 2020**. Your request was received in the APHIS FOIA Office on **March 23, 2020**, and assigned tracking number # **2020-APHIS-03179-F**. The target response date for your request is **April 20, 2020**. A copy of your request is attached.

We are currently processing your request for information. You may contact Sophana Lau-Lopez if you have questions concerning your request at **301-851-4083** or **sophana.n.lau_lopez@usda.gov**. You may also contact the FOIA office at FOIA.Officer@aphis.usda.gov. Please refer to your tracking number in all future communications with us regarding your request.

If you prefer, you can check the status of your request online through the USDA Public Access Link (PAL), at <https://efoia-pal.usda.gov/palMain.aspx>.

Sincerely,

Tonya G Woods
Director
Freedom of Information and Privacy Act
Legislative and Public Affairs

Enclosure(s)

Attachment C

**July 24, 2020 First Partial Response Letter
from USDA/APHIS**



United States Department of Agriculture

July 24, 2020

Marketing and
Regulatory
Programs

Animal and
Plant Health
Inspection
Service

Legislative and
Public Affairs

Freedom of
Information

4700 River
Road
Unit 50
Riverdale, MD
20737-1232

Ms. Kara Rollins
Litigation Counsel
1225 19th Street NW, Suite 450
Washington, DC 20036

Email: Kara.Rollins@ncla.legal

SENT VIA ELECTRONIC MAIL

*RE: Partial to Freedom of Information Act (FOIA) request
2020-APHIS-03179-F*

Dear Ms. Rollins:

This is a partial response to your Freedom of Information Act (FOIA) request which was dated and received in the U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) on March 23, 2020. Your request, which has been assigned FOIA number 2020-APHIS-03179-F, requests the following:

"[A]ccess to the following records of the Cattle Traceability Working Group and any other working groups that have addressed Animal Disease Traceability (ADT) issues in the cattle industry—including, but not limited to, email, instant messaging, text messages, handwritten notes, other communications made for official purposes, reports, and calendars—sent or received by certain U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) personnel. The time period of this request is January 1, 2017 to the present. NCLA seeks the records described above from the following individuals:

- 1. Dr. Aaron E. Scott (Aaron.E.Scott@aphis.usda.gov);*
- 2. Dr. Sarah M. Tomlinson (Sarah.M.Tomlinson@aphis.usda.gov);*
- 3. Dr. Jack A. Shere (Jack.A.Shere@aphis.usda.gov);*
- 4. Dr. Sunny Geiser-Novotny; and*
- 5. Neil Hammerschmidt (Neil.E.Hammerschmidt@aphis.usda.gov).*

Upon receipt, your request was sent to the Veterinary Services (VS) program to conduct a search of their files for records responsive to your request. VS began a search of their electronic files on March 26, 2020 and located **217 pages** of records responsive to your request.

As such, APHIS must release all requested records which are not exempt under the FOIA. After a review of the records, it has been determined that **200 page** are

Kara Rollins
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being released in their entirety and 17 pages are being withheld in full pursuant to FOIA Exemptions 5, *See 5 U.S.C. § 552 (b)(5)*. The following information provides justifications for our withholding of information under the applicable FOIA exemptions:

Exemption 5 (Deliberative Process Privilege)

Exemption 5 of the FOIA protects "interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." The courts have construed this somewhat opaque language, with its sometimes-confusing threshold requirement, to "exempt those documents, and only those documents that are normally privileged in the civil discovery context." As a threshold matter, the responsive records must be inter-agency or intra-agency documents in order to be protected from disclosure under Exemption 5.

One privilege incorporated into Exemption 5 is the deliberative process privilege, which protects the quality of agency decision making. To qualify for protection, the information must be pre-decisional and deliberative. Three policy purposes constitute the basis for the deliberative process privilege: (1) to encourage open, frank discussions on matters of policy between subordinates and supervisors; (2) to protect against premature disclosure of proposed policies before they are finally adopted; and (3) to protect against public confusion that might result from disclosure of policies and rationales that do not ultimately serve as the basis for agency action.

Specifically, the information being withheld under this exemption consists of draft preliminary recommendations of key issues regarding Animal Disease Traceability and draft assessment of the 2017 Joint Strategy Forum on Livestock Traceability. Although the comments reflect personal thoughts and opinions of the APHIS employees, the agency considered making a discretionary release of this information. However, we have determined that the disclosure of this information would chill the deliberative process of government personnel. Releasing this information would also discourage candid discussions within the agency, thereby inhibiting APHIS employees from freely exchanging their ideas, thoughts and/or opinions. Accordingly, this satisfies the foreseeable harm standard set forth by the Attorney General and the draft assessment has been withheld pursuant to the deliberative process privilege of FOIA exemption 5.

This is a partial response to your request. APHIS will provide you with the rights to appeal this response after it issues its final response to your request. In the interim, if you have any questions or concerns regarding this response, you may contact Yvonne Marquez, the analyst who processed your request, at (301) 851-4058 or by email, at Yvonne.Marquez@usda.gov as well as Mr. Bethany Jones, our FOIA Public Liaison, at (301) 851-4100. Additionally, you may contact the Office of

Kara Rollins
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Government Information Service (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road – OGIS
College Park, MD 20740-6601
Email: ogis@nara.gov
Phone: (202) 741-5770
Toll Free: (877) 684-6448
Fax: (202) 741-5769

Sincerely

JANELLE
JORDAN

for:

Tonya G. Woods
Director
Freedom of Information & Privacy Act
Legislative and Public Affairs

Digitally signed by JANELLE JORDAN
Date: 2020.07.24 11:39:06 -0400

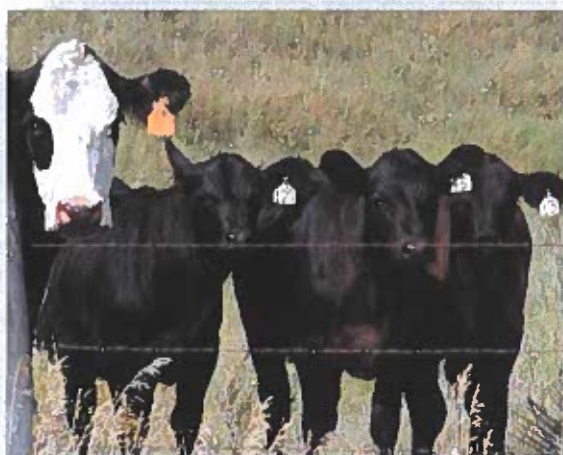
Enclosure (200 pages)

EXHIBIT 2

Animal Disease Traceability

Summary of Program Reviews and Preliminary "Next Step" Recommendations

November 2017



United States Department of Agriculture
Animal and Plant Health Inspection Service
Veterinary Services



AR-000107

Animal Disease Traceability

Summary of Program Reviews and Preliminary “Next Step” Recommendations

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Preface

This report provides a brief overview of the ADT framework and summarizes the reports prepared and the reviews conducted to evaluate its overall impact on animal disease traceability. Feedback obtained from industry stakeholders, and State and Federal animal health officials during extensive outreach efforts in 2017 provides details on the progress of ADT, successes, and challenges or problematic areas of the initial framework.

A State and Federal working group with substantial experience and knowledge of animal disease traceability comprehensively reviewed stakeholder feedback and prepared preliminary recommendations contained in this report. Members of the working group presented a preliminary draft of these recommendations at the Traceability Forum hosted by the National Institute for Animal Agriculture (NIAA) and the United States Animal Health Association (USAHA) in Denver, Colorado on September 26 and 27, 2017. Veterinary Services (VS) will publish the preliminary version of these recommendations for comment in the Federal Register, to solicit additional stakeholder feedback.

Introduction and ADT Program Description

Background

The U.S. Department of Agriculture (USDA) provides various programs that support the economic viability of animal agriculture. The Veterinary Services (VS) unit of the USDA's Animal and Plant Health Inspection Service (APHIS) works to improve the health, productivity, and quality of life for animals and people by maintaining and promoting the safety and availability of animals, animal products, and veterinary biologics.

Animal disease traceability- or knowing the whereabouts of diseased and at-risk animals are, where they have been, and when – is important to ensuring a rapid response when animal disease events take place. Although animal disease traceability does not prevent disease, an efficient and accurate traceability system reduces the number of animals and response time involved in a disease investigation; which, in turn, reduces the economic impact on owners and affected communities.

ADT Focus

The current approach to traceability in the United States is the result of significant discussion and compromise. Federal policy regarding traceability has been amended several times over the past decade based on stakeholder feedback, particularly from the cattle industry. In early 2010, USDA announced a new approach for responding to and controlling animal diseases, referred to as the ADT framework. Key principles of the 2010 framework include:

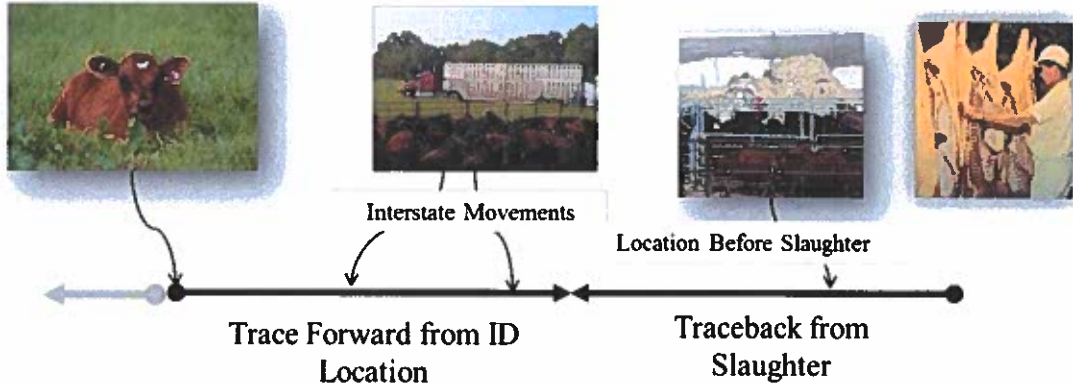
- Application to animals moved interstate.
- Administration by the States and Tribal Nations to increase flexibility.
- Encouraging utilization of lower cost technology.
- Transparent implementation through the full Federal rulemaking process.

USDA published a proposed rule, "Traceability for Livestock Moving Interstate," on August 11, 2011, and the final rule on January 9, 2013. Under the final rule, unless specifically exempted, livestock moved interstate must be officially identified and accompanied by an interstate certificate of veterinary inspection (ICVI) or other documentation. Covered livestock include cattle and bison, horses and other equine species, poultry, sheep and goats, swine, and captive cervids. The requirements do not apply to livestock moving:

- Entirely within Tribal land, that straddles a State line and for which the Tribe has a separate traceability system from the States in which its lands are located.
- To a custom slaughter facility in accordance with Federal and State regulations for preparation of meat.

As currently structured, ADT is a "bookend" system (Figure 1) which enables animal health officials to trace a covered animal forward from the location of official identification and backward from the animal's last location, which is often the termination point or slaughter plant. The rule includes identification (ID) and movement documentation exemptions that support the principle of flexibility at local levels.

Figure 1. U.S. Traceability with ADT – “Bookend System.”



ADT also focuses on interstate animal movements to provide information on the originating and destination premises for animals moved from one State to another. Animal disease programs, brand inspection and, in certain situations, industry programs like breed registries, performance recording systems, or marketing programs also provide traceability data.

While APHIS focuses on interstate movements of livestock, States and Tribal Nations remain responsible for the traceability of livestock within their jurisdictions. This approach was designed to leverage the strengths and expertise of States, Tribes, and producers and provide them the flexibility to develop the most effective traceability approaches to identify animals moving interstate nationally.

Although the requirements apply to multiple livestock species, the ADT program’s primary focus has been enhancing traceability in cattle as bovine disease eradication programs are phased out. For example, the success of the U.S. brucellosis eradication program, while certainly a positive development, has resulted in a steep decline in the number of cattle required to be tested and therefore officially identified. As a result of fewer cattle with official ID, the time required to trace animals during a disease investigation had steadily increased until the implementation of the ADT program.

Since the rule went into effect in March 2013, the focus of ADT has been the following areas:

- Educating stakeholders about the requirements;
- Identifying animals by using official ID;
- Collecting animal movement information;
- Increasing the number of records in searchable data systems; and
- Monitoring compliance.

Traceability performance measures (TPM), administered through trace test exercises, examine the successful administration of key ADT program elements, particularly official ID devices, ICVI and other movement documents.

ADT Reviews

ADT has been one of APHIS' top ten priorities since 2013, after the Agency issued a final rule to improve the United States' ability to trace livestock and poultry when disease events occur. In fiscal year (FY) 2015, the APHIS Administrator selected the ADT program for an internal review, as part of ongoing periodic assessments of Agency activities. More recently, APHIS initiated a program and stakeholder review in late 2016, to determine the effectiveness of the framework, as well as implementation successes and shortfalls over the past 3 years. In addition to the program staff assessment, APHIS conducted extensive outreach activities in 2017 with State, Tribal, and Federal animal health officials and industry to obtain grassroots feedback from producers and other sectors of the livestock industry.

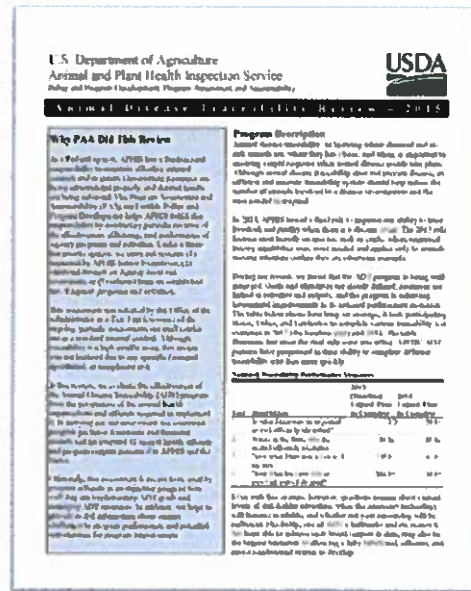
The multiple reviews provide insight into how well the program is being managed; the efficiencies gained in administering tracebacks, aspects of ADT that are working well, traceability regulations that are problematic and/or creating confusion, and gaps remaining in tracing capabilities since the implementation of the framework. Such program reviews provide essential feedback, which APHIS uses to identify program priorities and future collaborative opportunities with industry.

Internal APHIS Review

In FY 2015, two years after the publication of the ADT final rule, the APHIS Administrator selected the program for review by an independent Agency assessment staff that conducts periodic reviews of the effectiveness, efficiency, and performance of APHIS programs and activities. The review team evaluated the effectiveness of the ADT program from the perspective of the animal health organizations and officials that implement it. The assessment provided an objective gauge of how well ADT program officials were implementing goals and managing resources. It also provided information regarding challenges to program performance and opportunities for improvement.

In brief, the review team found:

- The ADT program was well managed, had well-defined goals and objectives, and was helping State and Federal animal health officials achieve incremental improvements in their animal disease tracing capability.
- APHIS was managing its ADT resources capably. APHIS applied the majority of ADT funding to cooperative agreements with the States, Tribes, and Territories and Agency employee salaries. In both cases, direct links existed between the resource application and program activities, outputs, and outcomes. The review team noted, however, that FY 2015 resource levels might not be sufficient to sustain continual program improvement.



- Achieving a more comprehensive and effective traceability system was still a distant goal. Despite the progress recorded, at the time of the 2015 review, most animal health officials indicated that to achieve a truly effective traceability system, the ADT program must:
 - Mandate electronic ID devices for cattle (after officials ensured that appropriate tag and reader technology solutions were available);
 - Incorporate beef cattle under 18 months into the ADT rule.

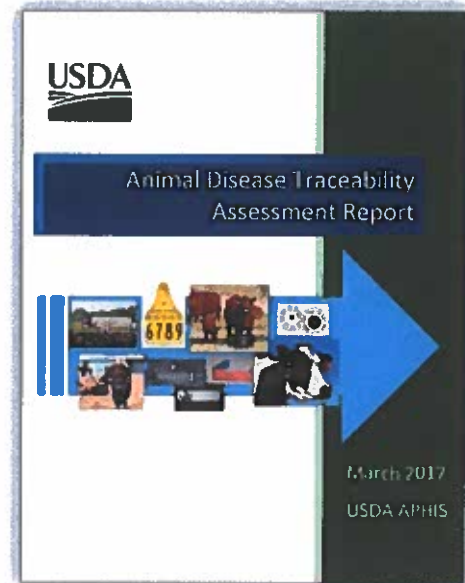
The review listed several outstanding challenges that APHIS and its cooperators faced in ADT implementation: (1) the program's flexibility, which helped it achieve broad support but also allowed for differing regulatory requirements among the States, potentially affecting compliance, traceability efficiency, and long-term feasibility; (2) available technology, which was limited by effectiveness, cost, and acceptance by stakeholders; (3) resource levels, which may not have been adequate to sustain continual ADT improvement into the future; and (4) the lack of compelling external forces or messaging to influence stakeholders who were opposed or ambivalent towards ADT.

The review also noted opportunities on which APHIS could focus to ensure the program was as well positioned as possible for continuing successful ADT implementation. These opportunities included: (1) conducting more data analysis to focus implementation efforts; (2) continuing to invest in technology that would allow individual animal movements to be recorded at a reasonable cost without impeding commerce; (3) encouraging greater Federal/State collaboration at all levels; (4) setting priorities for ADT funds that became available unexpectedly; (5) leveraging stakeholder relationships to spread information about ADT; and (6) ensuring an updated plan is in place for a full traceability system, should a worst-case scenario animal disease event occurrence prompt the immediate implementation of such a system.

In addition to the identified challenges and opportunities, the review team recommended the ADT program focus on establishing definitive performance levels to be achieved within the current system and structure, identifying the ultimate goal for ADT, and ensuring APHIS is positioned to achieve this goal over the long term.

ADT Program Assessment

The objective of the assessment conducted by ADT program staff in late 2016, was to evaluate the program and the effectiveness of Title 9, *Code of Federal Regulations* (9 CFR) Part 86, pertaining to animal disease traceability related to cattle and bison. The assessment included evaluation of documentation on actual program traces (e.g., tuberculosis) and trace exercises administered to capture TPMs under the ADT cooperative agreements with States; review of monitoring and compliance efforts including Investigative and Enforcement Services (IES) investigations; and informal discussions with State and Federal animal health officials.



The assessment report reflects that the basic framework of ADT established in 2013 is successfully implemented. The TPMs denote an improvement in the administration of official ID and movement documentation for covered livestock. Specifically the elapsed times to complete TPMs have decreased, and the percent of traces successfully completed each fiscal year has increased. The TPM improvements are primarily attributed to the timely retrieval of electronic records for official ID (tags distributed and tags applied) and movement documents.

While APHIS is confident that implementation of the basic ADT framework was successful, some of its parameters limit the progress of the program, and significant gaps still exist within current tracing capabilities. Examples of these gaps include:

- Application of the official ID requirement only to livestock moving interstate, creates significant confusion in marketing channels and enforcement challenges.
- Use of visual-only low cost ID eartags presents obstacles for collecting animal ID efficiently and accurately.
- The traceability regulations do not include feeder cattle, which APHIS views as an essential component of an effective traceability system in the long-term.
- Some federally approved slaughter plants could improve the collection of ID devices at slaughter and the correlation of the devices to the carcass through final inspection.

The full assessment report may be obtained at:

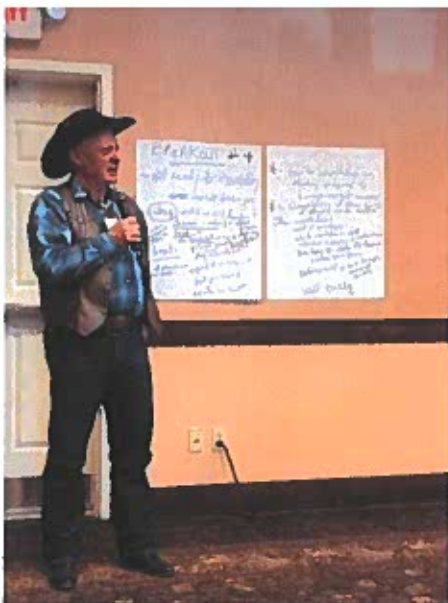
<https://www.aphis.usda.gov/traceability/downloads/adt-assessment.pdf>

Public Meetings

As an adjunct to the ADT program assessment, APHIS felt it was essential for industry stakeholders from all sectors of the cattle industry to offer their opinions on relevant issues to help define traceability objectives and how they want to achieve those goals. APHIS conducted nine ADT public

meetings, at the locations listed below, as part of our outreach efforts in 2017. The purpose of these meetings was to solicit industry input regarding their experiences with ADT: What areas are working well? What aspects are challenging, confusing, or problematic? How can these obstacles be rectified? What level of traceability should be considered if we are to move beyond the basic traceability framework?

Stakeholders also had the opportunity to comment on the current ADT framework via regulations.gov through July 31, 2017. APHIS received 462 written comments during this period. A summary of the feedback obtained from the public meetings and written comments are included on page 11.



Location / Dates of Public Meetings

- Oklahoma City, OK – April 11, 2017
- Riverdale, MD – April 13, 2017
- Nashville, TN – April 20, 2017
- Bloomington, MN – May 2, 2017
- Denver, CO – May 4, 2017
- Sacramento, CA – May 11, 2017
- Billings, MT – May 24, 2017
- Omaha, NE – July 18, 2017
- Fort Worth, TX – July 20, 2017

State Federal ADT 2017 Working Group

In 2017, APHIS established a State-Federal ADT Working Group in accordance with the Federal Advisory Committee Act to assist APHIS in reviewing the ADT regulation, examine feedback from the public meetings and written comments, and provide input based on their experiences with

disease traceability issues. ADT staff worked through the National Assembly of State Animal Health Officials to obtain representation for each U.S. Animal Health Association district. The working group focused on aspects of ADT related to cattle and bison. The group met every two weeks via conference call starting March 21, 2017.

Members of the working group are listed below and the working group's preliminary recommendations addressing key traceability issues are covered on page 16 of this report.

Name	Affiliation
Geiser-Novotny, Sunny	Cattle Health Staff/ ADT Veterinarian, APHIS VS SPRS
Hammerschmidt, Neil	Manager, ADT, APHIS VS SPRS
Halstead, Steve	District Director, APHIS VS SPRS
Hickam, Linda	State Veterinarian, Missouri Department of Agriculture
Hughes, Dennis	Nebraska State Veterinarian, Nebraska Department of Agriculture
Kitchen, Diane	Veterinarian Manager, Florida Department of Agriculture and Consumer Services
Linfield, Tom	Assistant District Director, APHIS VS SPRS
Massengill, Rose	Animal Identification Coordinator, APHIS VS SPRS
McGraw, Paul	State Veterinarian, Wisconsin Department of Agriculture, Trade and Consumer Protection
Odom, Rick	Animal Health Information Systems Manager, Virginia Department of Agriculture
Schwabenlander, Stacey	Senior Veterinarian, Minnesota Board of Animal Health
Scott, Aaron	National Preparedness and Incident Coordination Center (NPIC), APHIS VS SPRS
Smith Justin	Deputy Animal Health Commissioner, Kansas Department of Agriculture
Steck, Allie	Animal Disease Traceability Coordinator, Pennsylvania Department of Agriculture
Turner, Alex	Traceability Veterinarian, Colorado Department of Agriculture
Westly, Rolf	Veterinary Medical Officer, APHIS VS SPRS
Winslow, Thatch	Assistant State Veterinarian, Wyoming Livestock Board
Zaluski, Marty	State Veterinarian , Montana Department of Livestock

Summary of Feedback on the ADT Program

Since the publication of 9 CFR Part 86 in January 2013, APHIS has sought feedback on the ADT framework from industry, State, Tribal, and Federal animal health officials with the goal of

enhancing our tracing capabilities for emergency response, disease control, and eradication programs. This report summarizes the most recent stakeholder feedback that APHIS received during a series of nine public meetings held across the nation this year and through a Federal Registry notice requesting comment on the program.

Participants in attendance at the ADT public meetings expressed appreciation for the opportunity to discuss the ADT framework and collaborate with APHIS on future traceability objectives. Both meeting attendees and written comments acknowledged that the general framework has been successful in improving the official ID of covered livestock, the documentation of interstate movement, and the availability of those records. The information below summarizes the concerns with the original framework and considerations of future traceability opportunities.

General Concerns

Confidentiality and Security of Information Systems: The issue of confidentiality continues to be an issue of concern among producers, as is the overall security of the information technology (IT) systems. The producers indicated support for the ADT implementation changes that placed more responsibility for holding their information at the State-level.

Liability: Producer liability remains an area of concern. Previous discussions on animal ID primarily focused on producer liability when diseased animals are traced to a premises that may have held the animal prior to the infection. Recent discussions involved concern about the liability related to injury of animals or personnel when working cattle for tagging, manually reading tags, etc.

Cost: Meeting attendees and commenters stated that the cost of traceability must be distributed across all sectors of the industry. In particular, if electronic ID (EID) technology is implemented as the only method of official ID, the cow/calf industry should not cover the cost of EID tags when the entire industry benefits. Some commenters noted that other sectors would contribute significantly to the cost of the infrastructure for EID, and as a result, the cost to implement EID would not be borne by the cow/calf sector alone.

Small Producers: APHIS should consider issues associated with requiring small producers to comply with an enhanced traceability regulation, including costs that are proportionally higher for this segment of the industry due to economy of scale and management limitations (for example, the ability to tag their own cattle). This sector includes a significant number of producers and cattle. Thus, their viability impacts markets and other service providers. Producers that sell their beef products direct to consumers provided many written comments that expressed their concerns about the cost and burden associated with animal ID, in particular, electronic methods. Individuals from this sector also noted that their animals are already traceable from custom slaughter facilities back to their premises.

Common Issues Regarding the Current ADT Framework

Focus of ADT: Some participants believe that APHIS should administer ADT for animal disease control and leave marketing opportunities to Agricultural Marketing Service (AMS) programs and the private sector. However, feedback also acknowledged the need for the United States to have a national traceability program to meet international trading partners' requirements for animal disease control and felt the two topics are linked to one another.

Beef Feeder Cattle (Beef Feeders): The inclusion of beef feeders in the official ID requirement was the primary topic of discussion at public meetings. While a large number of stakeholders acknowledged that beef feeders need to be part of the official ID requirements at some point, the consensus was to address the gaps in the current framework, which covers beef breeding cattle over 18 months of age and all dairy, before expanding the official ID requirements to beef feeder cattle. Additional points of consensus regarding the official ID for beef feeders included:

- The expansion of regulations for the official ID of beef feeder cattle under 18 months of age must conform to normal rulemaking procedures.
- Beef feeders could be included after an expanded framework is fully functional for breeding animals, including the requirement for official EID and the supporting infrastructure.
- Other individuals suggested incremental implementation of beef feeder requirements; with the initial objective to obtain birth premises ID and tag retirement, then as infrastructure becomes established, phase in the collection of movement data.
- While beef feeder cattle official ID requirements should be delayed, discussion on the processes to include beef feeders in the ADT program should continue ensuring preparation of an implementation plan.
- APHIS should conduct a cost-benefit analysis on official ID/traceability of beef feeder cattle to support future discussions/decisions on this topic and to determine the level of traceability warranted for beef feeder cattle.
- Livestock markets, while supportive of tagging sites for the population currently covered, explained that the burden of tagging beef feeders at their auctions is not feasible and solutions to tagging at the farm/ranch or before arriving at the auctions are essential. An alternative suggestion was to apply the official tag for these cattle at the first receiving premises when working these cattle for management purposes. The records of tags applied should provide contact information of the person responsible for the cattle when sold at the markets.
- Some individuals expressed concern that the official ID of all beef feeders would diminish market advantages and premiums of added-value programs.

ID to Birth Premises: To better achieve traceability, most individuals supported the need to apply official ID at the birth premises for animals that are covered by the official ID regulation. If that is not practical, they supported tagging at change of ownership or first point of commingling, versus at the time of first interstate movement, provided the animals are traceable to the birth premises. Since beef cattle under 18 months of age would remain exempt until determined otherwise, producers would officially identify adult beef animals when first shipped after 18 months of age for change of ownership or commingling.

Flexibility and Exemptions: Feedback from the meetings indicated that industry feels the current framework is too flexible and that there are too many exemptions, which confuse the interpretation of the regulations. While recalling the reasons for the exemptions and their intent, there was strong consensus that the exemptions create too many traceability gaps in the classes of cattle and bison covered under the current rule. The exemptions also make enforcement of the existing regulation more challenging, as it is difficult to determine if an animal at subsequent locations required official ID earlier in life.

State Differences: There was a strong consensus more standardization and uniformity of State import requirements is necessary. Preparing interstate certificates of veterinary inspection (ICVIs) has become very complicated. Individuals referenced the requirement by some States to record official ID numbers of dairy steers on ICVIs as one example of how State regulations differ from the Federal regulation and from one State to another.

Uniform Enforcement: The livestock markets voiced concerns that enforcement of the current regulation is inconsistent and unfairly targets markets, while private treaty sales and online auctions are not monitored or held to the same degree of accountability. They identified the lack of enforcement for other industry sectors as a gap that must be rectified. There was a strong sentiment that more stringent enforcement actions at the markets would drive sales through non-market venues. However, most individuals agreed that compliance would automatically improve if all cattle (less beef feeders) required official ID on first movement from the birth premises.

EID Technology: Many industry participants and animal health officials agreed that EID is necessary to achieve cost-effective traceability. Producers, market managers, accredited veterinarians, and others expressed concerns about cattle handling challenges and economic losses created by the need to restrain cattle to manually read and record the official ID number on small visual-only eartags. While the National Uniform Eartagging System (NUES) tags – traditionally known as the metal clip “brite” tags – are inexpensive to purchase, individuals from across the industry indicated there is significant expense throughout the production chain associated with their use. Feedback also indicated that many support the phase-out of free NUES tags and that APHIS needs to eliminate them as an official method of ID. However, multiple issues need to be addressed before the transition to EID can occur, including:

- If radio frequency ID (RFID) is to be utilized, the establishment of standards, including one technology (low-frequency (LF) vs ultra-high frequency (UHF)) is critical. Most stakeholders supported a dual technology tag as an interim measure.
- The infrastructure must be in place to support the transition to EID.
- Cost remains the primary concern of producers and representatives from other sectors of the industry for both the reader infrastructure and tags; however, the use of EID would provide substantial savings due to the increased efficiency associated with the technology.
- Availability and use of electronic forms, in particular, electronic ICVIs. Obtaining records electronically would decrease cost and improve the completeness and accuracy of the data. Additionally, retiring animal numbers at slaughter would be feasible, where it has been cost-prohibitive with visual-only tags.
- A cost analysis on metal NUES tags to show the full cost of tags when working cattle to manually record ID numbers (labor, stress and shrink, injury, etc.), as well as their limitations relative to traceability, e.g., tag retirement, to more accurately illustrate the costs of both visual-only and EID tags.
- Proportionally higher implementation costs for smaller producers, who sell direct to consumers and believe their livestock are already highly traceable.

Movement Documents: Discussions around movement documents focused primarily on the need for an ADT program definition of a movement document, including the necessary data elements as the minimum standards. Importing States should determine additional requirements for animal health certificates, ICVIs, permits, etc. The recommendation to establish a nationally standardized,

electronic movement document alternative to ICVIs garnered participant support. Additionally, there was support to increase the value and volume of owner-shipper statements (OSS) by implementing an efficient process to collect and store OSS information by offering an electronic version.

Collection of ID at Slaughter: As reported in the ADT assessment, APHIS noted inconsistencies with tag collection and their accurate correlation to the carcass at some slaughter facilities. APHIS is working with field personnel and the Food Safety Inspection Service (FSIS) to address the issue. State animal health officials and industry recognize this shortfall and identify it as a high-priority gap in the current framework that needs to be rectified.

Other Comments

Official ID Tags: There are differing views on using the same eartag for both official ID and management. Some producers prefer the same tag for both purposes, as it makes the tagging process more efficient and the official tag works well with herd management practices. Other producers commented that when they purchase cattle with official IDs with existing management numbers on the same tag, it creates conflict with their management numbering systems and, subsequently, they prefer not to have such tags used for ADT. However, there was consensus that APHIS should consider the use of one basic official eartag to increase the awareness of which tag is official, lessen accidental removal, and improve compliance. Additionally, commenters recommended that ID devices approved for AMS' Process Verified Program (PVP) and those designated as official by APHIS ADT should be compatible.

Brand certificates and inspection: Individuals commented on the long-term value of brands and brand inspection. Commenters stated that official ID tags should not be represented as an alternative or promoted to replace brands. Animal health officials in brand States noted the value of brands and brand inspection for proof of ownership and providing information when conducting traceback investigations, but admitted that brands alone do not provide the level of traceability needed for disease control.

Outreach: Many commenters indicated that APHIS and States would need to ensure enhanced outreach efforts to reach producers regarding revisions to traceability requirements.

Recording Official ID Numbers: Participants raised the issue of recording individual ID numbers on ICVIs, and provided the suggestion to list ranges of numbers to avoid having to rework cattle after a sale to obtain the specific IDs going to each premises. Individuals also suggested that a premises ID number tag could suffice for traceability to avoid the current challenge of recording individual IDs.

Cattle Imported to the United States: Some industry participants expressed concern regarding mandated traceability in the domestic herd for ADT while allowing importation of animals and/or products from countries affected with foot-and-mouth disease (FMD) and tuberculosis (TB), such as Brazil and Mexico, respectively. Additionally, attendees raised concerns about the quality of diagnostic tests and vaccination options related to TB and brucellosis and the lack of available funding to improve those and the FMD vaccine bank.

Data Systems: Many State animal health officials expressed concern that APHIS' data systems are not efficient and indicated that even enhanced traceability would fail without efforts to increase

electronic submission of data and data sharing capabilities.

Preliminary Recommendations on Key Issues

The State-Federal ADT 2017 Working Group reviewed the ADT regulation, examined feedback from the public meetings and written comments, and provided input based on their experiences with disease traceability issues to provide the following preliminary recommendations pertaining to traceability of the cattle sector.

1. INTERSTATE MOVEMENTS THAT DO NOT APPLY TO THE TRACEABILITY REGULATIONS

Smaller producers that raise cattle for direct sale of meat products to consumers express concern regarding the cost of future traceability requirements. The regulation does not pertain to interstate movements to a custom slaughter facility for preparation of meat (in accordance Federal and State regulations), as such cattle are highly traceable to the premises of origin in the event of disease detection at the slaughter facility.

Recommendation

Maintain the policy that traceability regulations do not apply to interstate movements to a custom slaughter facility in accordance with Federal and State regulations for preparation of meat.

Note: The recommendation listed in #3 below clarifies that the exclusion of movements to custom slaughter would pertain only to animals that were born on the premises that ships directly to the custom slaughter facility.

2. CATTLE POPULATION COVERED IN THE OFFICIAL IDENTIFICATION REGULATIONS

The initial ADT regulation excluded beef cattle under 18 months of age from the official ID requirement. While most stakeholders acknowledged that the regulation should include this sector of the cattle industry at some point, there is overwhelming support to address several shortfalls or gaps within the current ADT framework first. Recommendation 14 of this report specifically addresses the requirement of official ID for beef feeder cattle.

Recommendation

Maintain the current population of livestock covered by the official ID requirements. The ADT rule will continue to include:

- All dairy
- Beef cattle > 18 months of age
- All rodeo and exhibition cattle

Industry leaders should evaluate the merit and practicality of including official ID requirements for beef bulls and beef heifers under 18 months of age specifically sold for breeding purposes. This approach aligns with the priority to identify breeding animals and would align with some existing State requirements. The working group acknowledges the potential confusion and difficulty of enforcing this requirement, thus recommends industry provide feedback on this issue.

3. LIMITING OFFICIAL IDENTIFICATION REQUIREMENT TO INTERSTATE MOVEMENTS

The most significant impediment to disease traceability resulting from 9 CFR Part 86 is the restriction that the official ID requirement applies only to livestock that move interstate. Cattle movements are quite diverse, often with multiple congregation points and opportunities for disease spread prior to interstate movement. An individual animal infected with a highly contagious disease may never leave the State where it was born, remaining unidentified while spreading disease to many other animals that subsequently move to several new states.

The regulation creates significant confusion in marketing channels where cattle of differing requirements may be mixed, as well as enforcement challenges and complications. The interstate ID requirement often places the onus on livestock markets, where the sorting and tagging of animals is often cumbersome and may fall short of full compliance. Additionally, the ability to determine compliance with the official ID requirement at slaughter plants is nearly impossible due to limited resources.

Recommendation

Cattle should be identified to their birth premises¹, thus the official ID records must provide birth premises information for the animal. APHIS should revise Federal regulations to include interstate commerce and the appropriate authority – either USDA or State officials – should establish regulations that trigger official ID requirements at:

- Change of ownership
- First point of commingling
- Interstate movement (may reflect no sale and no commingling)

4. ELECTRONIC IDENTIFICATION SYSTEM FOR CATTLE

Possibly the most significant change in stakeholder opinion since the establishment of the current ADT framework in 2013, is an increase in support for EID for cattle. Stakeholders expressed interest in moving forward with EID, or specifically RFID, at each of the nine ADT public meetings in 2017. However, there continues to be some stakeholders that are not supportive of EID for livestock in general.

Many animal health officials, as well as industry stakeholders, acknowledge that the level of traceability necessary in the United States is unachievable with visual only tags. While the NUES tags, traditionally known as the metal clip “brite” tags are inexpensive to purchase, there is significant expense throughout the production chain associated with their use. Producers, market managers, accredited veterinarians and others express concern about animal handling challenges and economic losses created by the need to restrain cattle to manually read and record the official ID number on NUES.

APHIS is conducting a study on the costs associated with NUES tags to reflect the full cost associated with the manual collection of NUES numbers and the inability to retire these numbers after slaughter due to expense.

¹ The phrase, “identified to birth premises” is occasionally referenced in this report. While it is recommended that cattle should be tagged at their birth premises, it is acknowledged that there are situations where the tagging process can be accomplished more efficiently at subsequent locations. The phrase “identified to the birth premises” allows for tagging at other locations with the acknowledgment that the record of tag applied provides the birth premises information for the animal tagged.

The ultimate success of an EID system hinges on identifying a high majority of the cattle population with a compatible EID tag to gain the greatest efficiencies possible from the technology. Maintaining a parallel visual only eartag system that requires manual recording of ID's on a significant portion of cattle would make the cattle handling processes more cumbersome and increase cost.

Many additional questions exist when considering comprehensive EID solutions. Particularly, regarding the cost of tags and readers, and how to standardize the technology in order to ensure system compatibility across manufacturers. Multiple, or competing, EID technologies would cause significant confusion, conflicts, and financial challenges. Therefore, it will be imperative to define a single technology standard. It is also essential that any new standards support the movement of animals at the speed of commerce².

Recommendation

The United States must move toward an EID system for cattle with a target implementation date of January 1, 2023. A comprehensive plan is necessary to address the multitude of very complex issues related to the implementation of a fully integrated electronic system. A specialized industry-lead task force with government participation should develop the plan, with a focus on several key objectives, including:

Standardization

- Propose minimum performance standards that work at the speed of commerce for all cattle handling environments at a highly effective read rate (e.g., +95% read rate).
- Propose a non-proprietary, cost-efficient, and effective technology solution, based on results of performance evaluations that adhere to established technical communication standards and will ensure compatibility of devices across manufacturers.

Transitional technology solutions

- Identify solutions that will “bridge” or incorporate other electronic solutions during a defined transition period (ensure workability of current/existing technologies).

Timelines

- Propose a realistic timeline with key steps to support the transition to a fully integrated EID system. Key steps should include:
 - Set a date for when visual only official tags will no longer be available (manufactured, distributed, sold or provided; including “brite” NUES tags from USDA). The objective would be to use a phase-out period to deplete visual tag inventories. Cattle with official visual only tags prior and through the transition period would not need be retagged with an EID tag.
 - Set a date for when all cattle needing official ID must be identified with

² Interpretation of “speed of commerce”: Referred to as, “compatible with existing accepted commerce systems; the ID device/method shall be compatible with existing accepted commerce systems, allowing for the reading/recording of official ID in a safe and humane manner at a pace that does not impede the normal and accepted processing time; and shall be compatible with Beef Quality Assurance (BQA) and Dairy Animal Care and Quality Assurance (DACQA) standards and practices.”

official EID, e.g., January 1, 2023. Cattle with visual only tags after this date will require retagging with an official EID tag.

Funding

- Consider funding options for addressing cost concerns, such as,
 - Federal startup funds.
 - Startup incentives; cost share, etc.
 - Allow small producers to obtain equivalent of volume discounts, etc. (e.g. 1st 20 tags for \$x.00 regardless of volume purchased).
 - Spread cost equitably across industry sectors.
 - Utilize funds currently in place to support NUES tag acquisition and distribution on EID investments.

In addition, the working group recommends the following actions related to EID:

- APHIS should first discontinue providing free NUES tags then phase them out according to the EID implementation timeline.
- Utilize compatible EID tags in all cattle disease programs, for example the brucellosis program should move to an orange Official Calhoo Vaccinate EID tag exclusively.
- Reexamine the requirement to record existing official ID numbers when applying an EID tag to individual animals already officially identified with visual only tags. Waiving the recording of the official number of the visual tag(s) when first enacting the official EID tag requirement will help minimize the burden to the industry to fulfill this requirement.
- Solicit industry and other stakeholder feedback on the proposed plan after publication by the task force. USDA should only consider rule making that defines the selected official EID method for cattle if a majority of the cattle industry is supportive of the proposed EID implementation plan.
- Develop an extensive communication plan to support the clear understanding of future requirements.

5. ADMINISTRATION OF ELECTRONIC RECORDS

The working group acknowledges that the full utilization of electronic records is essential for effective administration of the ADT program and considers them part of the overall electronic system. Tremendous gains have been achieved over the past several years in increasing the volume of electronic records to support animal disease control programs. In addition, the establishment of independent State surveillance and traceability information systems has been well received. However, data sharing between these independent systems is becoming an increasing issue of concern among animal health officials since there is no established mechanism for data sharing from State to State or between Federal and State systems. The investments in obtaining electronic records, particularly converting paper based forms to electronic media, has been both successful and costly. Opportunities to capture data electronically in the field is highly supported and essential to minimize ongoing and costly data entry and scanning processes associated with paper documents.

Recommendation

APHIS and States must make the advancement of electronic records an immediate high priority. The enhancements recommended below would increase the ease of collecting data in a standardized format and subsequently provide access to accurate data in near real-time, greatly enhancing the effectiveness of U.S. traceability and disease control programs. The responsible parties should address the following points:

Data Element Standardization and Communication Protocol for Information Exchange

- APHIS should develop an expandable messaging service independent of all sending or receiving data systems, to support information sharing among States and Federal stakeholders without concerns about the type of systems originating or receiving the data.
- Address shortfalls in the USAHA Data Standards subcommittee-developed electronic ICVI schema; implement state requirements for electronic ICVI vendors to adhere to standardized formats; and confirm USDA adherence to the standard in the Veterinary Services Process Streamlining (VSPS) system while providing the ability for sharing and receiving information from other ICVI systems.
- Develop a data exchange schema for surveillance events such as tuberculosis testing, brucellosis testing, and vaccination.
- APHIS should provide a web-based application available to State and Federal animal health officials and accredited veterinarians for uploading and manually entering testing, vaccination and movement information, generating the associated forms if necessary and allowing electronic data capture from the web application into the above messaging service.

Animal Health Event Repository (AHER)

AHER provides a comprehensive search tool for internal APHIS data systems that store animal records containing official ID numbers, including VSPS, Surveillance Collaboration Services (SCS), Animal Identification Management System (AIMS) and the Emergency Management Response System (EMRS). Access to AHER is currently only available through an EMRS investigation or the TPM utility.

- Develop external State and private system messages that feed into the above messaging service to forward metadata information to AHER
- Fund private system message development through ADT cooperative agreements and invite States to participate at their discretion. Make improvements to the existing user interface to assist with other types of animal tracing queries while providing clear and concise results.

6. ENFORCEMENT OF ADT REGULATIONS

A high level of compliance with the ADT regulations is imperative for successful animal tracing results. The working group discussed feedback from the public meetings regarding the need for greater uniformity of enforcement, particularly concerning private treaty sales. They also note that increased levels of monitoring are necessary in environments where disease spread is a higher risk and where the disease event would have the most significant impact. These locations are where cattle commingle from various premises and then move to multiple additional premises. Such congregating locations include livestock markets,

buying stations, consignment sales, etc. The working group also notes that fewer exemptions and revising the regulation to cover more than interstate movement would improve the ability to monitor for compliance, as the current rule allows for many cattle to move unidentified. These exemptions and limitations complicate the recognition of animals moving interstate not in compliance with the official ID requirement.

Recommendations

- Continue to target noncompliance by repeat offenders with enforcement actions.
- Work with IES to conduct more timely investigations.
- Maintain a higher level of enforcement oversight at locations where there is a higher risk of disease spread, or which would have the most detrimental impact on the industry.
- Evaluate and implement appropriate enforcement procedures for private sales, internet sales, production sales, herd dispersals, etc.
- Work with transportation agencies to perform spot-checks on highways and at transport nodes to monitor compliance with the ADT regulations during movement of animals.
- Cooperate with States that have resources in the field that could help document and report noncompliance situations to the local VS office and APHIS IES personnel.
- Encourage States of destination to inform States of origin of ADT or other violations.
- Survey State and Federal officials to establish a comprehensive listing of compliance oversight methods used across the country.
- Obtain specific recommendations from participants attending the NIAA Traceability Forum.
- Share recommended practices and enforcement methods nationally and encourage local APHIS officials to work collaboratively with State animal health officials to implement appropriate actions.
- Activities of cattle dealers, online auctions and others involved in commercial buying/selling of cattle should be enforced by the State when dealer licensing regulations apply.
- Collaborate with FSIS to ensure collection of ID by slaughter facility personnel and correlation with the animal and its carcass through final inspection. (For more on this topic, please see recommendation 7.)

7. COLLECTION OF ID AND ITS CORRELATION TO THE CARCASS AT SLAUGHTER PLANTS

Successful traceability relies on maintaining the animal's identity at slaughter plants through final carcass inspection. Under 9 CFR Parts 86 and 310.2, all ID devices affixed to covered livestock unloaded at slaughter plants must be collected and correlated with the animal and its carcass through final inspection or condemnation by means approved by the FSIS. ID devices must also be packaged with any diagnostic samples from the animal. Success at meeting these requirements is inconsistent across the industry, due to factors such as lack of training and personnel turnover, as well as safety and efficiency concerns related to the collection of ID at the speed of the line. Failure to properly correlate ID to the correct

carcass hampers traceability efforts and diminishes the value of the official ID.

Recommendation

APHIS should continue the efforts of the State/Federal Slaughter Plant Working Group to improve the rates of ID collection and correlation at slaughter including:

- Development of training and outreach materials on the requirements for new plant, FSIS, and APHIS personnel.
- Monitoring of diagnostic submissions collected to ensure slaughter plants sufficiently apply correlation practices.
- Maintaining constant communication and collaboration with FSIS to assist slaughter plants with correction of failed collection and/or correlation practices.

8. PUBLIC/PRIVATE INFORMATION SYSTEM

Confidentiality and security of data remains a significant concern by many cattle producers and must be resolved to strengthen industry buy-in and support for advancing traceability. Private information systems that support various marketing programs, including AMS PVP, branded products, etc. include traceability data that could assist in achieving ADT objectives.

Recommendation

APHIS and States need to establish a partnership with industry that would enable utilization of private information systems for disease surveillance and response events. Ideally, establish a communication protocol between the private systems and an animal disease traceability portal that would allow producer data to be maintained in the private systems and made available to animal health officials only when needed for animal disease control and response. Producers would have the choice to maintain their data in a private or public system. APHIS and the States would continue to protect producer data held in their systems and use it only for disease response. The basic concept of the communication protocol should account for:

- Defining data elements and standards for traceability information to which private systems would adhere (primarily official ID numbering formats and premises data).
- Developing a communication protocol that would allow a government portal to message the private system when a search for animal numbers or premises is necessary to respond to an animal disease event.
- Limited access – only State and Federal animal health officials would have access to the portal.

9. EXEMPTIONS FOR OFFICIAL IDENTIFICATION REQUIREMENTS

Stakeholders broadly acknowledged that the exemptions for official ID create confusion and challenges to enforce ADT requirements uniformly. The working group reviewed each official ID exemption provided in 9 CFR Part 86.4. The direct to slaughter movements – in particular, those through one approved facility – are of the most concern; however, providing a simple revision to resolve this issue is challenging and needs additional input from the industry.

Referenced below are the exemptions to the current official ID regulations with

corresponding recommendations. (See Appendix III for complete regulatory text for the official ID exemptions.)

Recommendation

Commuter herd agreements

APHIS should remove the exemption for official ID. The requirement for individually listing the animals' ID number on the movement document should allow for a range of numbers when a high majority of the animals covered under the agreement has official ID numbers within that range, or as agreed upon by the State animal health officials.

Movements directly from a location in one State through another State to a second location in the original State

The working group maintains the current position that APHIS should not require official ID for these movements.

Tagging sites

APHIS and States should maintain the option to move cattle to a tagging site where they are tagged on behalf of the owner or person responsible.

Official identification options as agreed on by shipping and receiving State

APHIS should remove this exemption allowing alternative methods of ID.

Direct to slaughter movements

The working group recommends APHIS:

- Continue to allow cattle to move from the farm/ranch direct to slaughter on an approved USDA backtag in lieu of the official ID eartag, and retain the stipulation that requires official ID of cattle moved from the slaughter plant.
- Remove the exemptions for cattle moving to slaughter through one approved livestock facility, unless industry, State, and Federal officials collaborate to administer specific control protocols to ensure that these animals move direct to slaughter from the approved facility.
- Consider phasing out the official ID exemptions for direct to slaughter movements, based on the EID implementation timeline, to ensure all cattle covered in the regulation arrive at the slaughter plant with the same technology tag.

10. ICVI EXEMPTIONS AND MOVEMENT DOCUMENTS

The working group reviewed the importance of ICVIs and the challenges they present. As noted in the section on electronic records, the working group believes continued emphasis on electronic ICVIs and other electronic movement records are a high priority. While the working group is not offering a specific change to the ICVI requirements, they provided the following recommendations.

Recommendation

Obtaining the key components of traceability – accurate and complete records of official ID numbers and the ship from and ship to locations – is critical to ADT program success. In anticipation of technology changes (specifically EID) and acknowledgement of regional differences in the availability of accredited veterinarians, States should consider use of movement documents, such as import permits or other documents that States have used

successfully, as alternatives to ICVIs. Stakeholders support consistent requirements; however, the State of destination should be responsible for determining the documents appropriate for collection and compliance of key traceability components for livestock arriving to that State.

The working group provided further recommendations regarding ICVI exemptions below:

- Direct to slaughter, including through one approved facility: The ICVI exemption for direct to slaughter cattle is appropriate and should remain. The current exemption for slaughter movements through one market must be restricted to one market movement regardless if it is an interstate or intrastate shipment.
- Direct to an approved facility with an owner-shipper statement: There is concern about the exemption for interstate movements to an approved facility when the cattle move from the approved facility to a premises other than a slaughter plant. The current regulation allows for the exemption unless the cattle move interstate from the market. Removing this exemption and changing the regulation to cover change of ownership would address this issue.
- The ability for cattle to move under commuter herd agreement documents as agreed upon by the State animal health officials should remain. As noted in the official ID exemptions, the State authorities involved will determine if the listing of individual numbers is required or range of numbers is acceptable on movement documents for commuter herds.

11. UNIFORMITY OF STATE IMPORT REGULATIONS

The working group reviewed the stakeholder feedback pertaining to the confusion and difficulties that result from variations in State import regulations. The working group suggests limiting the exemptions to 9 CFR Part 86, to clarify and improve the uniformity of the federal requirements across States. For example, eliminating the option for the shipping and receiving States to agree on other forms of official ID would help standardize the official ID requirements.

The working group also noted the need to review official ID requirements separately from those associated with testing and other health issues. For example, many of the health requirements established by States are those that industries within their State have requested to protect the health of their cattle operations and such issues are often specific to certain regions. The working group did not support expanding health requirements to achieve uniformity, as it would actually lead to more import regulations across the country and would be unwarranted from an animal disease control perspective.

Recommendation

9 CFR Part 86 should provide the national standards for official ID and movement documentation. APHIS should continue revision of the regulations to increase standardization, considering that eliminating various exemptions will lessen confusion and State differences.

- The promotion of the website InterstateLivestock.com should expand to encourage increased use by accredited veterinarians, producers, livestock markets and others who need information on State import regulations.
- It is essential that States maintain the ability to establish more stringent import requirements.

- Uniformity of State regulations is important to increase the understanding of and compliance with import regulations. However, because disease issues are unique to certain areas of the United States, States should regionalize animal health import requirements as appropriate.

12. UNIFORM OFFICIAL IDENTIFICATION EARTAGS

There are differing views on allowing numerous tag types (size, shape, color, etc.), using bangle-like official eartags for both management and official ID purposes, or using one distinct standard tag for official ID. Some producers prefer the same tag for both management and official ID purposes, as it makes the tagging process more efficient. Others indicate a preference for a standard tag for official ID since many producers prefer to remove tags with existing herd management numbers when buying replacements from other dairies and ranches. Comments from stakeholders suggest that one standard tag would increase recognition of official ID and as a result, decrease the accidental removal of official tags. Additionally, there is support for AMS and APHIS to achieve uniformity of devices for both programs. Manufacturers of official ID eartags also indicate that a standard tag would improve manufacturing efficiencies and lower the cost of the official tags.

Recommendation

The working group feels there is value in considering a standard, or uniform, official eartag to increase awareness and understanding that it is unlawful to remove the tag. APHIS should conduct a study to determine the potential advantages and disadvantages of having one national ID eartag for cattle. The study should examine the merit a standardized tag might bring to ease of recognizing official tags and its effect on compliance. The study should also include cost comparisons of the use of numerous tag styles, sizes, etc. versus one standard, uniform tag. APHIS should review this information and, if having one uniform tag has significant advantages, publish the one tag concept for public comment through the Federal Register. The actual change, if pursued, would require rulemaking.

13. OFFICIAL EID TAG FOR IMPORTED CATTLE

The definition of official eartags in 9 CFR Part 86.4 stipulates that the application of animal ID number (AIN) tags (commonly referred to as “840 tags”) is limited to livestock born in the United States. As a result, there is no official EID tag with LF technology available to retag imported animals. This has created some challenges in the marketplace. For example, regulations prohibit dairies that use 840 AIN LF tags for herd management, including parlors with integrated daily milk recording systems, from retagging a Canadian import with an 840 eartag. Since there is no official LF EID device, the producer is limited to retagging with a visual or UHF NUES tag and neither tag is compatible with their electronic herd management system. Conflicts with cattle shows that require AIN LF eartags are also becoming more common. This issue will become a more significant challenge if the United States moves to official EID in the future.

Recommendation

The ability to maintain the identity of imported cattle is essential. As such, the working group recommends that APHIS allow the retagging of such animals with an official EID tag by revising the traceability regulation to define an “Import Tag” (with a specific range of AINs and tag color). For example, APHIS could reserve a range of 840 numbers starting

with “8409” for use on these tags. To help distinguish “Import Tags” that have a panel component, the panel piece of the tag should include the text “Import”. This ID option would clearly identify animals tagged with an 840 Import Tag after importation to the United States; provide producers the option to use compatible EID technologies as preferred; and allows for re-tagging visual only tagged imported cattle with an 840 EID Import Tag (even if the visual only official tag of the exporting country is in the ear). Producers using UHF technology could use USDA approved UHF 840 tags or the USDA approved UHF NUES tags when the State Animal Health Official authorizes this option. The recordkeeping requirements for tagging imported animals would remain the same as currently written in 9 CFR Part 86 for retagging and adding a second official tag. The working group recommends that APHIS prohibit the use of visual only 840 tags in imported animals.

14. OFFICIAL IDENTIFICATION OF BEEF FEEDERS

The inclusion of beef feeder cattle in the traceability regulations is an essential component of an effective traceability system in the long term. However, addressing other fundamental gaps in the traceability framework must occur first. The working group values the feedback from stakeholders regarding the official ID of beef feeder cattle under 18 months of age, and agrees with these points provided by stakeholders:

- Extensive collaboration with industry stakeholders potentially affected by the ID of beef feeders is critical, and official ID of this sector would require separate rulemaking to ensure appropriate review.
- Tagging large numbers of beef feeder cattle is not practical or feasible at livestock markets during peak periods of feeder sales. Therefore, alternative processes need to be established.
- Consider the timely development of a plan for the inclusion of beef feeders in the official ID requirement. This proactive approach will ensure well-defined processes are in place in the event their inclusion is necessary in response to a worst-case scenario animal disease event with minimal advance notice, such as an outbreak of FMD.
- Consider incremental steps for the official ID of beef feeders, particularly policies that allow official ID to the birth premises. Recording of official ID numbers for movement should be implemented over time as technology is highly proven to work at the speed of commerce.
- Providing the option of tagging beef feeder cattle at the next location upon transfer of ownership, including auctions, feedlots and other locations that receive these cattle is essential.
- The USDA should conduct studies to document the level of traceability necessary for this sector and its cost/benefit.

The working group agrees with these statements above and reaffirms that APHIS should address the official ID of beef feeder cattle under 18 months of age through separate rulemaking.

Conclusion of Preliminary Recommendations

Industry, States and APHIS worked collaboratively to develop the initial ADT framework, resulting in improved buy-in and support from many stakeholders; we must continue to collaborate on addressing complex issues regarding ADT and partner to advance traceability by:

- Increasing the overall percentage, or proportion, of the cattle population officially identified and whose ID records reflect the animal's birth premises.
- Moving forward with a comprehensive electronic system; including the ID methods and the reader infrastructure to capture ID electronically at the speed of commerce.
- Improving our IT infrastructure, electronic data capture systems, and data information sharing, including options with private systems, to increase our ability to more efficiently capture and utilize animal ID, animal sighting, and movement information; resulting in a more effective and efficient traceability system.

The immediate focus should be to rectify existing traceability gaps in the cattle population currently covered in the ADT regulation, reduce confusion, and minimize conflicts in the initial ADT framework by:

- Identifying cattle currently covered in the official ID requirement when there is a change of ownership or at first point of commingling, and ensuring the ID information reflects the birth premises.
- Considering solutions to reduce the number of exemptions and to clarify their interpretation, particularly "direct to slaughter" movements.
- Enhancing monitoring and enforcement of existing regulations to improve compliance in all sectors with emphasis on higher risk/impact areas.
- Improving the consistency of ID collection at slaughter with proper correlation to the carcass.
- Establishing data and communication standards to increase the utilization of electronic records and data sharing capabilities.
- Supporting the immediate establishment of an industry and State/Federal Task Force to prepare a plan for targeting implementation of an EID solution for cattle and bison by January 1, 2023. The plan should include recommendation on the technology most capable of working effectively at the speed of commerce and defining other key implementation target dates.

APHIS and States should work to address programmatic issues, in particular, electronic records. APHIS should consider using the rule making process to make changes to the traceability regulation only with industry support. Following feedback on this report from stakeholders, the ADT working group will finalize their recommendations for USDA's consideration.

Appendix

Appendix I – List of Acronyms

ADT	Animal Disease Traceability
AIMS	Animal Identification Management System
AIN	Animal Identification Number
AMS	Agriculture Marketing Service
APHIS	Animal and Plant Health Inspection Service
CFR	Code of Federal Regulations
EID	Electronic Identification
EMRS	Emergency Management Response System
FMD	Foot and mouth disease
FSIS	Food Safety Inspection Service
ICVI	Interstate Certificate of Veterinary Inspection
ID	Identification
IES	Investigative and Enforcement Services
IT	Information Technology
LF	Low Frequency
NIAA	National Institute for Animal Agriculture
NUES	National Uniform Eartagging System
OSS	Owner-Shipper Statement
PVP	Process Verification Program
RFID	Radio Frequency Identification
SCS	Surveillance Collaboration Services
TB	Tuberculosis
TPM	Trace Performance Measure
UHF	Ultra-High Frequency
USAHA	United States Animal Health Association
USDA	United States Department of Agriculture
VS	Veterinary Services
VSPS	Veterinary Services Process Streamlining

Appendix II – Working Group on Slaughter Plant ID Collection & Correlation

On November 9, 2016, APHIS established a working group to address traceability issues and short falls noted in the ADT assessment report.

Objective: Improve the rates of ID collection and correlation to the carcass at slaughter plants, to maximize ADT efforts related to disease programs and surveillance efforts.

Specific goals for the working group include:

1. Review ID collection and correlation processes obtained from the top 40 adult and top 22 fed cattle plants to determine best practices for application to all plants, especially those with demonstrated difficulty in proper ID collection and correlation.
2. Develop and implement a plan for routine DNA matching on non-histocompatible VS Form 6-35 submissions to closely monitor proper correlation of ID to the carcass.
3. Develop a protocol for outreach to plants regarding cases where DNA microsatellite test results indicated that tissue/hair associated with ID did not match the lesioned tissue submitted or matching was not possible because no tissue was submitted with the ID.
4. Develop elements for training State/Vs field personnel on inspection of ID collection and correlation systems within slaughter plants.
5. Collaborate with FSIS to develop and implement training for FSIS Public Health Veterinarians and Inspectors on oversight of ID collection and correlation systems within slaughter plants.
6. In instances requiring additional information for a lot of cattle that contained diseased animals (from which samples were taken and submitted for diagnostic testing), there is often no data available from many adult-kill plants to assist with reconstructing correlation in retrospect since brucellosis blood sampling ceased. Evaluate the capability of adult-kill slaughter plants to reconstruct correlation of man-made ID to carcasses within a lot that contained diseased cattle for one (1) week after slaughter of such diseased cattle, and develop a plan to address this lack of capability where it exists.
7. Develop a guidance document with FSIS for ensuring the issuance of compliance actions for slaughter plants that fail to properly collect man made ID and correlate it to the appropriate carcass.
8. Update the FSIS ADT MOU.

The working group listed below meet monthly via conference call.

Name	Affiliation
Pat Basu	Chief Public Health Veterinarian - FSIS, OPHS
Brian Bohl	TAHC Veterinarian, TX
Debbie Cox	VS Cattle Health Staff FSIS Liaison
Sunny Geiser-Novotny	VS Cattle Health Staff/ ADT Veterinarian
Neil Hammerschmidt	VS Traceability Program Staff
Robert Kerschen	VS EC, CO
Bob Meyer	Assistant State Veterinarian, WY
Kent Munden	VS Animal Identification Coordinator, TX
Barry Pittman	State Veterinarian, UT
Mark Schoenbaum	VS Cattle Health Staff Epidemiologist
Rob Southall	VS Assistant Director, KY
Dawn Sprouls	District Manager, OFO
Debbie Sumpter	VS Animal Identification Coordinator, CA
Beth Wittenbrader	VS Animal Health Technician, PA

Appendix III – Official Identification and ICVI Exemptions

Regulation text from 9CFR Part 86.

§ 86.4 Official identification.

(b) Official identification requirements for interstate movement—

(1) *Cattle and bison.* (i) All cattle and bison listed in paragraphs (b)(1)(iii)(A) through (b)(1)(iii)(D) of this section must be officially identified prior to the interstate movement, using an official identification device or method listed in paragraph (a)(1) of this section unless:

- (A) The cattle and bison are moved as a commuter herd with a copy of the commuter herd agreement or other documents as agreed to by the shipping and receiving States or Tribes. If any of the cattle or bison are shipped to a State or Tribe not included in the commuter herd agreement or other documentation, then these cattle or bison must be officially identified and documented to the original State of origin.
- (B) The cattle and bison are moved directly from a location in one State through another State to a second location in the original State.
- (C) The cattle and bison are moved interstate directly to an approved tagging site and are officially identified before commingling with cattle and bison from other premises or identified by the use of backtags or other methods that will ensure that the identity of the animal is accurately maintained until tagging so that the official eartag can be correlated to the person responsible for shipping the animal to the approved tagging site.
- (D) The cattle and bison are moved between shipping and receiving States or Tribes with another form of identification, as agreed upon by animal health officials in the shipping and receiving States or Tribes.

(ii) Cattle and bison may also be moved interstate without official identification if they are moved directly to a recognized slaughtering establishment or directly to no more than one approved livestock facility and then directly to a recognized slaughtering establishment, where they are harvested within 3 days of arrival; and

- (A) They are moved interstate with a USDA-approved backtag; or
- (B) A USDA-approved backtag is applied to the cattle or bison at the recognized slaughtering establishment or federally approved livestock facility.
- (C) If a determination to hold the cattle or bison for more than 3 days is made after the animals arrive at the slaughter establishment, the animals must be officially identified in accordance with § 86.4(d)(4)(ii).

§ 86.5 Documentation requirements for interstate movement of covered livestock.

(c) *Cattle and bison.* Cattle and bison moved interstate must be accompanied by an ICVI unless:

- (1) They are moved directly to a recognized slaughtering establishment, or directly to an approved livestock facility and then directly to a recognized slaughtering establishment, and they are accompanied by an owner-shipper statement.
- (2) They are moved directly to an approved livestock facility with an owner-shipper statement and do not move interstate from the facility unless accompanied by an ICVI.
- (3) They are moved from the farm of origin for veterinary medical examination or treatment and returned to the farm of origin without change in ownership.
- (4) They are moved directly from one State through another State and back to the original State.
- (5) They are moved as a commuter herd with a copy of the commuter herd agreement or other document as agreed to by the States or Tribes involved in the movement.
- (6) Additionally, cattle and bison may be moved between shipping and receiving States or Tribes with documentation other than an ICVI, e.g., a brand inspection certificate, as agreed upon by animal health officials in the shipping and receiving States or Tribes.
- (7) The official identification number of cattle or bison must be recorded on the ICVI or alternate documentation unless:
 - i. The cattle or bison are moved from an approved livestock facility directly to a recognized slaughtering establishment; or
 - ii. The cattle and bison are sexually intact cattle or bison under 18 months of age or steers or spayed heifers; *Except that:* This exception does not apply to sexually intact dairy cattle of any age or to cattle or bison used for rodeo, exhibition, or recreational purposes.

EXHIBIT 3

McCluskey, Brian J - APHIS

From: McCluskey, Brian J - APHIS
Sent: Friday, February 23, 2018 4:19 PM
To: Jack A Shere (jack.a.shere@aphis.usda.gov); Burke L Healey (burke.l.healey@aphis.usda.gov)
Cc: Levesque, Ashley - APHIS
Subject: FW: REQUEST and Update on Cattle industry WG
Attachments: Attachement - ADT recommendations edit 2.23.18.docx

I know we don't have permission to share the entire ADT report that includes the 14 recommendations, however, Aaron would like to at least share the bulleted 14 points with this Cattle Industry Working Group to helpfully get them on the same set of tracks we are on.

You okay with that?

See you on Tuesday.

Brian J. McCluskey, DVM, MS, PhD, Dip. ACVPM
Associate Deputy Administrator
Surveillance, Preparedness and Response Services
USDA, APHIS, Veterinary Services
970-494-7395

From: Scott, Aaron E - APHIS
Sent: Friday, February 23, 2018 4:10 PM
To: McCluskey, Brian J - APHIS <brian.j.mccluskey@aphis.usda.gov>
Subject: REQUEST and Update on Cattle industry WG

Brian,

The Cattle Traceability Work Group (CTWG) that we have discussed previously is composed of about 30 prominent industry leaders from across the industry sectors with a goal to advance ADT. This group was formed as an outcome of the NIAA/USAHA forum that we co-hosted last September. They are very progressive and have formed five task subgroups: 1. Communication and transparency, 2. Collection technology, 3. Responsibility and opportunities, 4. Information liability, and 5. Data storage and access.

USDA was not invited to their initial meetings as they discussed and developed their mission, but this morning indicated they would like to work in parallel with USDA efforts. I will be meeting with their co-chairs on Monday to discuss further. They have interest in the 14 recommendations that were compiled from USDA stakeholder outreach in 2017 (USDA's "Next Steps Report") and presented at the September forum.

That report has not yet been cleared for release; however, it would be helpful if I could at least discuss and/or share the bulleted list with them and our key areas of focus (attachment). This information will help to ensure that we are all working toward common goals to advance ADT.

Thank-you for consideration,

Aaron

Visit **VS Success!**

Aaron Scott DVM, PhD, Diplomate ACVPM (epidemiology)

USDA APHIS Veterinary Services: (SPRS)

Director: National Animal Disease Traceability & Veterinary Accreditation Center

2150 Centre Ave blding B, MS-3E79

Fort Collins CO, 80526

Office: 970-494-7249

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EXHIBIT 4

**National Institute of Animal Agriculture
Cattle Traceability Working Group
Dr. Jack Shere**

Background - Cattle Traceability Working Group (CTWG)

The purpose of the CTWG is to work collaboratively across the various segments of the cattle industry to enhance the traceability of animals for purposes of protecting animal health and market access. The CTWG works to create consensus among stakeholders on key components of traceability so there is an equitable sharing of costs, benefits, and responsibilities across all industry segments. The overarching goal of the CTWG is to enhance cattle identification and traceability to a level that serves the needs of producers, marketers, exporters, and animal health officials.

Animal Disease Traceability (ADT) Framework

- The ADT Framework covers a small portion of what is referred to as full traceability.
- When APHIS initiated ADT, we intentionally agreed to focus on the very basic aspects of traceability, with the understanding that we'd build upon that foundation over time and only when we've successfully implemented what we refer to as Phase I.
- Under APHIS ADT regulations, animals moved interstate, unless otherwise exempt, have to be officially identified and accompanied by an interstate certificate of veterinary inspection (ICVI) or other movement document.
- Since the rule went into effect in March 2013, the focus of the ADT program has been educating stakeholders about the rule's requirements; identifying animals—particularly cattle—using official ID; collecting animal movement information; increasing the volume of electronic/searchable records; and ensuring rule compliance.
- Implementation of ADT is going well. We have heard strong support to advance traceability, particularly for electronic ID.
- ADT is a performance-based program. States and Tribal Nations have the flexibility to implement ADT in a way that works well for them.
- We track improvements in traceability through exercises called trace performance measures (TPMs). Results have shown that we have succeeded in implementing the basic framework of traceability.
- In 2017, 4 years after implementing the ADT rule, APHIS analyzed the ADT program. The review concluded that the program was working very well to the extent that it was designed;

however, many gaps remain in our ability to trace cattle.¹ These gaps result in some animals being untraceable, a lack of traceability to the birth herd, and visual ID tags for cattle that are incompatible with the speed of commerce.

Advancing ADT

- While we've successfully implemented key aspects of the initial framework for ADT, adjustments to the foundation principles are warranted.
- At the time of 9CFR Part 86's publication, APHIS and industry leaders agreed on the importance of having a functioning basic traceability system before considering a more comprehensive approach.
- During the summer of 2017, APHIS conducted nine public meetings to gather stakeholder input on the next steps for ADT. Issues that we heard include:
 - Limit the traceability regulation to interstate movements and currently covered population;
 - Various exemptions allow flexibility, but are confusing and often difficult to implement.
 - While a large number of stakeholders acknowledged that beef feeders need to be included in future, the consensus was to address the gaps in the current framework (beef breeding cattle over 18 months of age and all dairy), before expanding the official ID requirements to beef feeders, including the requirement for official electronic ID with the supporting infrastructure.
 - Issues with multiple ID methods and technologies. The use of visual-only eartags requires extra cattle handling resources, increases stress on the cattle, limits speed of commerce, and is not practical for official ID of beef feeders.
 - Need to have uniform enforcement across the industry sector, particularly in private sales.

Future of ADT – Next Steps

- The APHIS ADT strategy focuses on providing direction and expertise to industry partners, but also recognizes that all livestock sectors must be at the table to drive discussions.
- As part of the strategy, we would increase the overall percent of cattle officially identified; records must reflect the birth premises.
- We would also move forward with an electronic ID (EID) system that includes both the ID methods and reader infrastructure to capture ID's electronically at the speed of commerce.
- Per stakeholder feedback, EID is necessary for effective traceability and should allow for the handling of cattle without unduly slowing business operations.

¹ ADT Assessment: <https://www.aphis.usda.gov/traceability/downloads/adt-assessment.pdf>

- USDA believes that a single technology type is needed. Cattle move widely across the United States to markets in many States, and a single technology would allow identification devices to be read at any location.
- Otherwise, multiple readers and software would be required in each location creating confusion for logistics and increasing cost to support the infrastructure necessary to support multiple technologies.
- In addition, animals would need to be processed as if they were all tagged with LF devices (single file) due to performance constraints.
- APHIS' strategy to select a technology type includes:
 1. Fund unbiased studies to compare technology types. Ensure data is available to the public to provide a foundation for objective comparison and decision-making.
 2. Consider input from an industry-led task force representing a broad spectrum of industry organizations to assess alternatives and gather input from industry sectors.
 3. Consider input from all stakeholders.
 4. Select an official animal ID technology standard.
- We should also improve our information technology infrastructure by expanding electronic ICVIs and electronic health forms to streamline data sharing capabilities across State and Federal.
- Our immediate focus should be to rectify existing traceability gaps in the cattle population currently covered in the ADT regulation, reduce confusion, and minimize conflicts in the initial ADT framework by:
 - Identifying cattle currently covered when there is a change of ownership or at first point of commingling, and ensuring the ID information reflects the birth premises.
 - Considering solutions to reduce the number of exemptions and to clarify their interpretation, particularly "direct to slaughter" movements.
 - Enhancing monitoring and enforcement of existing regulations to improve compliance in all sectors with emphasis on higher risk/impact areas.
 - Improve the consistency of ID collection at slaughter with proper correlation to the carcass.
 - Establish data and communication standards and enhance information technology to increase the utilization of electronic testing, interstate movement records, and data sharing capabilities.
 - Support cooperative efforts between industry, States, and APHIS to implement an EID solution for cattle and bison capable of working at the speed of commerce.

Recommendations to USDA from the ADT Working Group

- The State/Federal ADT working group developed 14 preliminary proposals pertaining to ADT in the cattle sector.

- The Working Group proposals were based on feedback from industry and animal health officials on the ADT program, comments received from nine public meetings held in 2017, and their experience and knowledge of disease traceability. These proposals are not necessarily the view of the USDA.
- The proposals include:
 1. Continue to allow interstate movements that do not apply to traceability regulations (e.g., to custom slaughter);
 2. Cattle population covered in the official identification regulations;
 3. Birth premises identification of covered animals;
 4. Electronic identification system for cattle;
 5. Administration of electronic records;
 6. Enforcement of ADT regulations;
 7. Collection of ID and its correlation to the carcass at slaughter plants;
 8. Public/private information system;
 9. Exemptions for official ID requirements;
 10. ICVI exemptions and movement documents;
 11. Uniformity of state import regulations;
 12. Uniform official ID eartags;
 13. Official EID tag for imported cattle; and
 14. Official identification of beef feeders considered in separate rule-making.

EXHIBIT 5

Katie Ambrose

From: Katie Ambrose
Sent: Wednesday, July 25, 2018 4:35 PM
To: Scott, Aaron E - APHIS
Subject: FW: CTWG Minutes from the most Recent Sub Group Conference Calls!
Attachments: 6-29-18 Minutes Data Storage.docx; 6-28-2018 Resp&Opport Conf Call Minutes.pdf; 7-13-18 RespOpportCTWGConfCall.pdf; CTWG-Coll Technology 6-19-18 Minutes.docx; Ms Katie Ambrose.vcf; Ms Katie Ambrose2.vcf; Ms Katie Ambrose3.vcf

From: Katie Ambrose <Katie.Ambrose@AnimalAgriculture.org >
Sent: Tuesday, July 24, 2018 1:02 PM
To: 'nevil speer' <nevil.speer@turkeytrack.biz >; 'GFischer@allflexusa.com' <GFischer@allflexusa.com >; 'Swarton@wbsnet.org' <Swarton@wbsnet.org >; 'jleathers@6666ranch.com' <jleathers@6666ranch.com >; 'adami@equitycoop.com' <adami@equitycoop.com >; 'ross@tcfa.org' <ross@tcfa.org >; 'kbritton@wherefoodcomesfrom.com' <kbritton@wherefoodcomesfrom.com >; 'terry@coloradocattle.org' <terry@coloradocattle.org >; 'Chelsea Good' <cgood@lmaweb.com >; 'tforshey@agri.ohio.gov' <tforshey@agri.ohio.gov >
Subject: CTWG Minutes from the most Recent Sub Group Conference Calls!
Importance: High

Dear Chairs and Co Chairs,

Per our discussion this morning, please find the attached minutes from the most recent conference calls. As also discussed, please review as these minutes will be the most helpful to all as you plan your next set of conference calls as you will know what the other subgroups are focused on and where you may see overlap that will hopefully ensure no duplication of efforts.

The co-chairs will decide if they wish to send along any/all minutes to their team members!

Let us know if you will need/want assistance in setting up your next conference call.

6-19-18: Collection Technology
6-28-18: Responsibilities & Opportunities
6-29-18: Data Storage & Access
7-13-18: Responsibilities & Opportunities

Let me know what questions you have!

Thanks for your time this morning!

Warm Regards,



Ms. Katie Ambrose
National Institute for Animal ...
Executive Director

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13570 Meadowgrass Drive
Suite 201
Colorado Springs, CO 80921

EXHIBIT 6



United States Department of Agriculture

Animal and Plant
Health Inspection
Service

April 2019

Factsheet

Advancing Animal Disease Traceability: A Plan to Achieve Electronic Identification in Cattle and Bison

Animal disease traceability helps animal health officials know where diseased and at-risk animals are, where they've been, and when. This information is essential during a disease outbreak. USDA is currently working to strengthen its traceability system to protect the long-term health, marketability and economic viability of the U.S. livestock industry. Achieving this goal is only possible through continued federal, state and industry collaboration. USDA is committed to keeping our partners informed about our plans and progress as we work together to build the traceability system.

While there are several steps USDA needs to take in order to strengthen its traceability system, the most essential one is to move from metal identification tags to electronic identification tags in beef and dairy cattle, as well as in bison. The electronic tags use radio frequency identification (RFID), which speeds information capture and sharing.

RFID Benefits

The change to RFID will greatly enhance animal health officials' ability to locate specific animals quickly during an outbreak. It might have taken weeks or months to determine which animals need to be tested using paper records, but with electronic identification (ID), it could be as short as a few hours. This helps producers by significantly reducing the number of animals involved in disease investigations. It will also help animal movements from affected areas happen more quickly – while still ensuring no one else receives exposed animals.

Implementing RFID

Beginning January 1, 2023, animals that move interstate and fall into specific categories will need official, individual RFID ear tags. This does not include feeder cattle. Under the current regulations feeder cattle as well as other cattle and bison that move directly to slaughter do not require individual identification.

IMPLEMENTATION TIMELINE

USDA understands producers need time to transition to RFID and has worked with the National Assembly of State Animal Health Officials to establish manageable milestones to achieve this goal.

December 31, 2019

USDA will discontinue providing free metal tags. However, approved vendors will still be permitted to produce official metal tags for one additional year. Approved vendor tags will be available for purchase on a State-by-State basis as authorized by each State animal health official through December 31, 2020.

January 1, 2021

USDA will no longer approve vendor production of metal ear tags with the official USDA shield. Accredited veterinarians and/or producers can no longer apply metal ear tags for official identification and must start using only Official RFID tags.

January 1, 2023

RFID ear tags will be required for beef and dairy cattle and bison moving interstate that meet the above requirements. Animals previously tagged with metal ear tags will have to be retagged with RFID ear tags in order to move interstate. Feeder cattle and animals moving directly to slaughter are not subject to RFID requirements.

Animals that will require official, individual RFID tags include:

Beef Cattle & Bison

- sexually intact and 18 months or older
- used for rodeo or recreational events (regardless of age)
- used for shows or exhibitions

Dairy Cattle

- all female dairy cattle
- all male dairy cattle born after March 11, 2013

RFID Ear Tag Specifications

Beginning January 1, 2023, all cattle and bison that are required to have official identification under current regulations must have official RFID ear tags. The tags should be applied at the time of birth or before the animal moves off the farm in interstate commerce.

Tag technology can be low or ultrahigh frequency—whichever the State, producer or industry sector prefers. Tags must be approved by USDA and meet standards for quality and performance, be tamper proof, contain a unique ID, and display the U.S. official ear tag shield. Tags can be part of a matched set with visual identification. RFID tags will be available to replace the orange, metal brucellosis tags.

Transition Support

While electronic identification is critical for modernizing animal disease traceability, USDA understands this represents a big change for the industry and individual producers. Even though implementation of electronic identification is still several years away, USDA is committed to supporting producers as they transition from metal to RFID tags.

USDA will work with State animal health officials to share the cost of official RFID ear tags (instead of the free metal tags currently provided for cattle covered under the current regulation). This will reduce the cost that producers pay for RFID ear tags. USDA and State partners will also provide funding to support electronic readers for markets and accredited veterinarians as a critical component to implementing the electronic system.

As USDA modernizes its tagging system, we will also improve current State and Federal systems for official RFID tag distribution tracking, and record keeping.

Getting Official RFID Ear Tags

A premises identification number (PIN) is required to purchase official ID tags. USDA has a new interactive map that helps direct producers to state-specific resources for obtaining a PIN:

<https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/traceability/state-pin/>

States will approve and allocate discounted tags, managing the process through the current infrastructure. Accredited veterinarians may continue to inventory and apply official ID tags but must adhere to record keeping requirements.

USDA will maintain a list of approved manufacturers. Accredited veterinarians or producers may purchase official, approved tags directly from tag manufacturers or retailers.

Other Official Identification

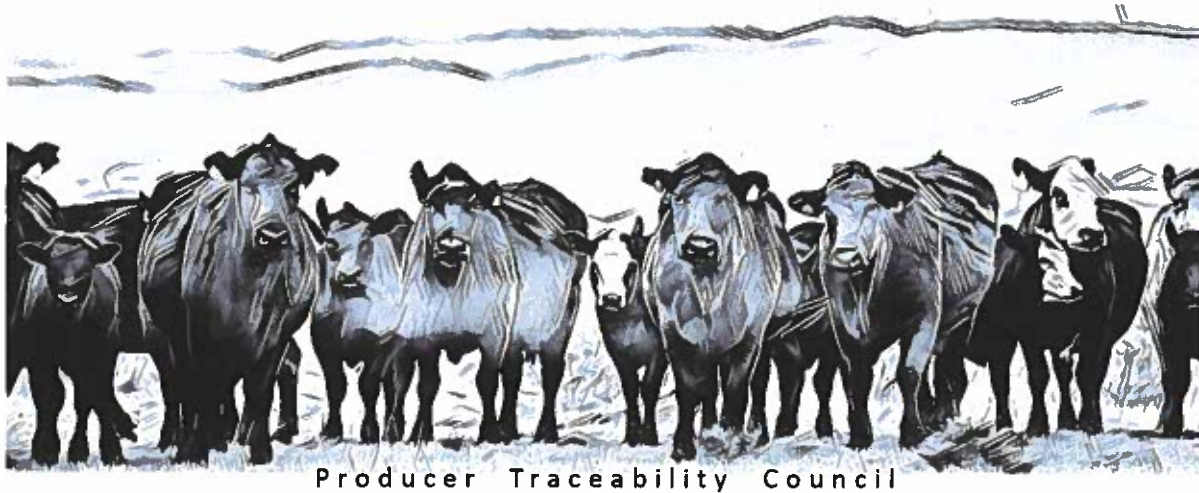
Brands and tattoos may still be accepted as official identification if both the shipping and receiving State or Tribal animal health authorities agree to accept the markings in place of RFID.

For More Information

If you have additional questions, please email: traceability@aphis.usda.gov

EXHIBIT 7

NEWS RELEASE



For Immediate Release
May 15, 2019
Contact: Katie Ambrose
719-538-8843 ext. 14

Producer Traceability Council Reaches Consensus on Key Elements to Increase Cattle Traceability in the U.S.

May 15, 2019 (Denver, CO)---In meetings last week, the Producer Traceability Council reached consensus on two major points to increase the number of cattle identified in the U.S. The Council unanimously agreed the best option for the cattle industry moving forward is to work toward the adoption of a High Frequency/Ultra High Frequency (HF/UHF) radio identification system and the timeline for adoption of the system mirror that of USDA's timeline for the sunseting of the metal tags with complete implementation no later than January 1, 2023.

The newly formed Producer Traceability Council has evolved and was established independently of the Cattle Traceability Working Group (CTWG). The focus is specifically on ways to increase the number of cattle identified with electronic identification devices, increase the number of sightings of identified cattle, identify methods of data storage, and suggest cost sharing scenarios, while taking into consideration and minimizing negative effects on producers.

"The cattle traceability issue is complex and concerns nearly everyone involved in the production, marketing, processing, and animal health aspects of the industry," said Chuck Adami, co-chair of the Council and CEO of Equity Cooperative Livestock Sales Assn. "The importance of a workable traceability system cannot be overstated given the need to effectively trace animals in the event of an animal health event. In addition, increasing pressure from

consumers and our export partners demanding a robust traceability system solidifies the need to get a system in place sooner rather than later.”

Currently, cattle in the U.S. are traced using a variety of systems and methods depending on the state in which the cattle are located, the age of cattle, and the type of identification the cattle may, or may not have. In some cases, this lack of consistency and use of effective technology hampers the efforts to complete timely and effective tracebacks and trace-outs.

“Being deeply involved in the cattle business, I feel it is imperative that we come together as producers and help lead the effort to enhance cattle traceability,” said Joe Leathers, Council co-chair and General Manager of the 6666 Ranch near Guthrie, Texas. “It just makes sense that we, as producers, use the best technology available so that while traceability is being achieved, we are also able to better manage our operations using that technology.”

While there continue to be obstacles that will need to be overcome, including how such technology will be paid for and by whom, protection from the misuse of data collected, and the development of secure data systems to transfer information, the Producer Traceability Council is optimistic that continuing this work will lead to success.

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The Producer Traceability Council is comprised of individuals focused on moving forward in the implementation of traceability by identifying and promoting immediate steps that will lead to an enhanced system. Current members of the Producer Council include Chuck Adami, Equity Cooperative Livestock Sales Assn., Mike Bumgarner, United Producers, Jarold Callahan, Express Ranches, Ken Griner, Usher Land & Timber, Inc., Kevin Hueser, Tyson Foods, Joe Leathers, 6666 Ranch, Jim Lovell, Green Plains Cattle Company LLC, Bob Scherer, Tyson Foods, Dr. Justin Smith, Kansas Animal Health Commissioner, Dr. Sarah Tomlinson, USDA, APHIS, VS, and Keith York, Dairy Farmer

EXHIBIT 8

Katie Ambrose

From: Katie Ambrose
Sent: Thursday, May 16, 2019 6:10 PM
Subject: Corrections to Producers Traceability Council - News Release
Attachments: Producers Traceability Council News Release - May - 2019 FINAL.pdf

Good Afternoon,

Please note two corrections to yesterday's news release from the Producers Traceability Council:

1. The consensus was for the adoption of an Ultra High Frequency (UHF) radio identification system only. High Frequency was stated in error.
2. Dr. Sara Tomlinson, Government Liaison, USDA, APHIS, VS, supports the Producer Traceability Council is in an advisory capacity only and is a non-voting member.

A corrected copy of the news release is attached as the "Producers Traceability Council News Release – May-2019 Final."

Please accept our apologies for any confusion.

EXHIBIT 9



40184

Notices

Federal Register

Vol. 85, No. 129

Monday, July 6, 2020

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2020-0022]

Use of Radio Frequency Identification Tags as Official Identification in Cattle and Bison

AGENCY: Animal and Plant Health Inspection Service, Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with Executive Order 13892, Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication, the Animal and Plant Health Inspection Service (APHIS) is soliciting public comments on a proposal wherein APHIS would only approve radio frequency identification tags as official eartags for use in interstate movement of cattle and bison that are covered under certain regulations.

DATES: We will consider all comments that we receive on or before October 5, 2020.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0022>.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS-2020-0022, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0022> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room

hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Aaron Scott, Director, National Animal Disease Traceability and Veterinary Accreditation Center, Strategy & Policy, Veterinary Services, APHIS, 2150 Centre Ave, Fort Collins, CO 80526; (970) 494-7249.

SUPPLEMENTARY INFORMATION:

Background

The Animal Plant Health Inspection Service's (APHIS') Animal Disease Traceability framework was established to improve the ability to trace animals back from slaughter and forward from premises where animals are officially identified in addition to tracing animals' interstate movements. Although 9 CFR part 86 (referred to below as "the regulations") provides requirements for official identification and movement documentation for multiple species, the scope of this notice is limited to official eartags for cattle and bison. Knowing where diseased and at-risk exposed animals are, as well as where they have been and when, is indispensable to emergency response and ongoing disease control and eradication programs. The ability to accurately and rapidly trace animals does not prevent disease epidemics but does allow State and Federal veterinarians to contain potentially devastating disease outbreaks early before they can do substantial damage to the U.S. cattle industry.

APHIS has primary regulatory responsibility to control and eradicate communicable diseases of livestock and to prevent the introduction and dissemination of any pest or disease of livestock into the United States. The regulations provide the requirements for identification and documentation for certain classes of cattle and bison to move interstate. These regulations establish minimum national official identification and documentation requirements for the traceability of livestock moving interstate. The species covered in the regulations include cattle and bison (sexually intact and 18 months of age or older, all female dairy cattle of any age and male dairy animals born after March 11, 2013, cattle and bison of any age used for rodeo or

recreational events, and cattle or bison of any age used for shows or exhibitions), sheep and goats, swine, horses and other equines, captive cervids (e.g., deer and elk), and poultry.

Official identification devices or methods are determined by the APHIS Administrator. An "official identification device or method" is defined in § 86.1 of the regulations as "[a] means approved by the Administrator of applying an official identification number to an animal of a specific species or associating an official identification number with an animal or group of animals of a specific species or otherwise officially identifying an animal or group of animals."

One of the approved identification methods for cattle and bison covered by part 86 is an official eartag. An "official eartag" is defined in § 86.1 of the regulations as "[a]n identification tag approved by APHIS that bears an official identification number for individual animals. . . . The design, size, shape, color, and other characteristics of the official eartag will depend on the needs of the users, subject to the approval of the Administrator. The official eartag must be tamper-resistant and have a high retention rate in the animal."

As of the publication of this notice, APHIS has used visual (metal) tags for animal identification in disease programs for many decades and has approved both visual and radio frequency identification (RFID) tags for use as official identification devices in cattle and bison since the implementation of the regulations in part 86 in 2013.

A comprehensive animal disease traceability system is the best protection against a devastating disease outbreak. The U.S. Department of Agriculture (USDA) is committed to a modern disease traceability system that tracks animals from birth to slaughter using affordable technology that allows for quick tracing of sick and exposed animals to stop disease spread. In September 2018, USDA established four overarching goals to increase traceability. These goals are: (1) Advance the electronic sharing of data among Federal and State animal health officials, veterinarians, and industry; including sharing basic animal disease traceability data with the Federal animal health events repository; (2) use

electronic identification tags for animals requiring individual identification in order to make the transmission of data more efficient; (3) enhance the ability to track animals from birth to slaughter through a system that allows tracking data points to be connected; and (4) elevate the discussion with States and industry to work toward a system where animal health certificates are electronically transmitted from private veterinarians to State animal health officials.

Effective animal traceability is important for slow-moving diseases of cattle, such as bovine tuberculosis. Failure to correctly identify the infected animal can result in prolonged exposure to the disease within a herd, increasing the likelihood of spread. Conversely, incorrect identification can lead to incomplete trace backs or trace forwards with resulting costs to both government and livestock producers for quarantines and testing of animals to find the ones actually exposed.

For fast-moving diseases with short incubation periods, the time to trace animals and contain an outbreak is essential to protect the economic viability and competitive advantage of the U.S. cattle industry. For diseases such as foot-and-mouth disease that could devastate the U.S. cattle industry, emergency response exercises demonstrate that every hour counts towards the successful containment of an outbreak.

While APHIS focuses on interstate movements of livestock, States and Tribal Nations remain responsible for the traceability of livestock within their jurisdictions. APHIS partners with State veterinary officials each year to test the performance of States' animal disease traceability systems. Results of these test exercises currently show that when State veterinary officials are provided an identification number from an animal that has been identified with an official identification tag, either metal or RFID, that has been entered accurately into a data system, over half of States can trace animals through any one of four types of movements in less than 1 hour (these four types of movements are: Finding the State where an animal was tagged, the location in-State where an animal was tagged, the State from which an animal was shipped out of, and the location in-State that an animal was shipped out-of-State from). However, lengthy times in the trace test exercises resulted when numbers from visual (metal) tags were transcribed inaccurately, movement records were not readily available, or information was only retrievable from labor-intensive paper filing systems. RFID tags and

electronic record systems provide significant advantage over metal tags to rapidly and accurately read and record tag numbers and retrieve traceability information.

In support of greater efficiency in traceability and in furtherance of the above-listed program goals, in 2020, APHIS started taking steps to enhance capability to rapidly trace and contain diseased and exposed cattle. We have done so by providing RFID ear tags as a no-cost alternative to the metal clip tags currently available from APHIS free of charge to States and accredited veterinarians. The RFID tags are intended for application in replacement heifers that are vaccinated for brucellosis, as well as those in States and herds that do not vaccinate for brucellosis. We believe the increased use of RFID tags is an important step to support the efforts of the cattle industry and State and Federal veterinarians to more accurately and rapidly trace potentially infected and exposed animals.

Executive Order 13892 provides that, in order to avoid unfair surprise, or lack of warning about what a legal standard administered by an Agency requires, Agencies shall publicly state the standards of conduct expected by regulated parties in advance of the enforcement of those standards. In accordance with this Executive Order, and in furtherance of the stated program goals and pursuant to part 86, APHIS is seeking comment from the public on a proposal wherein APHIS would only approve RFID tags as the official eartag for use in interstate movement of cattle and bison that are covered under part 86.

We recognize that, in addition to whether to transition to RFID identification devices, the timeline for such a transition is also important. Accordingly, we also request specific public comment on the following timeline, if, based on the comments received, USDA were to engage in such a transition:

- Beginning January 1, 2022, USDA would no longer approve vendors to use the official USDA shield in production of metal ear tags or other ear tags that do not have RFID components.
- On January 1, 2023, RFID tags would become the only identification devices approved as an official eartag for cattle and bison pursuant to § 86.4(a)(1)(i).
- For cattle and bison that have official USDA metal clip tags in place before January 1, 2023, APHIS would recognize the metal tag as an official identification device for the life of the animal.

This proposed change in what is considered an official eartag would not alter the current regulations in part 86 and would not amend the classes of cattle required to have official identification under the regulations. Likewise, this notice does not change part 86; for example, the State veterinary officials in States sending and receiving cattle could agree to accept alternate forms of identification such as registered brands, tattoos and other identification methods acceptable to breed associations in lieu of an official eartag. The policy for approving tags as official identification would continue to require that tags meet safety, quality, and retention criteria. However, all approved tags applied on or after January 1, 2023 would require an RFID component for the number that could be read visually as well as electronically.

This change would allow rapid and accurate reading and electronic transcription of identification numbers used for interstate health certificates or testing for regulated diseases such as tuberculosis or brucellosis. Implementing RFID as the official eartag in cattle would enhance the ability of State, Federal, and private veterinarians as well as livestock producers to quickly respond to high-impact diseases currently existing in the United States, as well as foreign animal diseases that threaten the viability of the U.S. cattle industry.

We will publish a follow-up notice in the *Federal Register* after reviewing any comments we receive. This notice will respond to any such comments, announce our decision on official eartags for cattle and bison, and, if necessary, provide a timeline for a transition if there is a change to what is an official eartag.

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 30th day of June 2020.

Michael Watson,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020–14463 Filed 7–2–20; 8:45 am]

BILLING CODE 3410–34–P