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Regulatory Analysis & Development  
PPD, APHIS, Station 3A—03.8  
4700 River Road, Unit 118  
Riverdale, Maryland 20737-1238

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*Submitted via Regulations.gov*

### **Comments of the National Cattlemen's Beef Association on APHIS-2021-0020, "Use of Electronic Identification Eartags as Official Identification in Cattle and Bison"**

The National Cattlemen's Beef Association (NCBA) appreciates the opportunity to comment on a proposed rule by the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) to transition to electronic identification (EID) eartags as the official eartags for use in the interstate movement of cattle and bison covered under 9 CFR, part 86. Electronic identification (EID) refers to any means of electronically recording tag numbers that is approved by APHIS for official identification. Currently, radio frequency identification tags (RFID) are the only approved EID. NCBA has long been supportive of traceability for animal health purposes and believes that the goal of any identification program should be to enable the cattle industry, state, and federal animal health officials to respond rapidly and effectively to animal health emergencies. NCBA's comments will reflect our support of the proposed transition to EID to facilitate the timely traceability of cattle and bison covered under 9 CFR, part 86 as well as express our concerns for the challenges associated with this proposed rule by the agency.

NCBA is the oldest and largest national trade association representing cattle producers and feeders in the United States, through direct and affiliate memberships. NCBA's members are strongly committed to maintaining the optimal health and well-being of the cattle under their care as well as to ensuring the highest quality, safe, and affordable beef for consumers.

#### **The Beef Cattle Industry's Commitment to Traceability**

Recognizing that animal disease traceability (ADT) is an essential component for protecting the United States cattle herd during an animal disease outbreak, NCBA supports the development and implementation of a nationally significant animal disease traceability system. To better continue the advancement of ADT, NCBA formed an internal Traceability Working Group comprised of representatives from all segments of the cattle industry and located in various geographical regions of the United States. The NCBA Traceability Working Group discussed key components of an enhanced ADT system. Using the guidance provided by NCBA's member-driven policies concerning traceability and animal identification, the NCBA Traceability Working Group worked to provide recommendations to address enhanced traceability plans and proposals.

From 2018 to 2020, the U.S. beef industry worked to explore the use of EID through three state pilot projects in Kansas, Florida, and Texas. We also note here that the state of Michigan has required RFID for all cattle prior to movement from any premise in Michigan since 2007. In Kansas, the CattleTrace pilot project used ultrahigh frequency (UHF) identification tags with the goal to collect the minimum necessary data (official animal identification number, GPS location of the readers, time, and date of recording) for disease traceability with a system that can operate at the speed of commerce and utilizes a private third-party data collection system. The pilot project in Florida aimed to demonstrate the feasibility of an economically justifiable traceability model with protected proprietary data, using low frequency (LF) RFID tags. The Texas pilot project utilized both UHF and LF tags to achieve the goal of disease traceability and the exchange of value-added information up and down the processing chain. The results from the three pilot projects, concluding in 2020, provide important data for enhancing the current animal identification system using RFID ear tags.



## **NCBA's Policy Priorities for ADT**

NCBA supports the continuation of the agency's existing ADT policy, which includes official animal identification, as well as the enhancement of traceability for animal disease purposes with EID. NCBA's support for the USDA proposed rule to transition to EID as the official identification tags for all currently covered cattle and bison moving interstate is based upon the organization's member driven policies regarding traceability and animal identification. NCBA policy regarding any animal disease traceability program advocates for the following overarching principles:

- Be compatible with private sector animal ID and verification programs backed by the USDA.
- Be compatible with the general traceability principles of the World Organization for Animal Health (WOAH).
- Recognize existing USDA programs for beef exports.
- Be built using infrastructure that supports other potential uses of ID.
- Utilize low-cost electronic official tagging devices paid for by federal and/or state funds, when possible.
- Require that cattle ID information for disease traceability be kept confidential and strongly protected from disclosure.
- Protect ownership information from disclosure to future owners.
- Protect producers from liability for acts of others, after the cattle have left the producer's control.
- Operate at the speed of commerce.
- Maintain existing state brand inspection activities without replacement or impediment.
- Work within a framework to accommodate all classes of cattle.
- Allow for a separate rule-making process for cattle under 18 months of age.
- Allow cattle movement between adjoining states on pasture-to-pasture permits at the discretion of the involved state animal health officials.
- Maintain data integrity throughout the system, including retagging and retirement of tags at harvest.
- Provide adequate resources to the states to facilitate the objectives of ADT and include the transition to any electronic identification.

NCBA appreciates the efforts of USDA, APHIS to achieve the overarching goals for advancing ADT and the agency's willingness to consider stakeholder feedback.

### **Transition to EID Tags as Official Identification**

After careful review of the proposal by USDA, APHIS to transition to EID as the official identification for cattle and bison currently covered under 9 CFR, part 86, NCBA would like to express our agreement with the over-arching benefits for achieving rapid and effective animal disease traces using EID as well as to identify the potential challenges for the implementation of the proposed EID rule.

We appreciate the flexibility of the agency to recognize any official identification device in place before the implementation date of the final rule for EID for the life of the animal to avoid the need for retagging large numbers of cattle. Additionally, the acceptance of alternate forms of identification, such as registered brands, tattoos, and other identification methods as acceptable to breed organizations in lieu of EID tags when agreed upon by shipping and receiving states will assist in the transition to EID technology. EID and electronic certificates of veterinary inspection (CVI) should provide increased accuracy and more rapid disease tracing in animal disease investigations. Shorter disease investigation times will minimize the impact of animal disease for the cattle industry. EID will facilitate permitted movement of cattle in the event of a foreign animal disease outbreak and enhance the ability of state and federal animal health authorities to respond to high impact diseases in cattle. Additionally, EID should result in more consistent action to retire tags at slaughter.

At the same time, potential challenges exist for the beef cattle industry to transition to EID as the official identification for the currently covered classes of cattle moving interstate. The increased costs of EID and the associated infrastructure improvements needed to realize the benefits of this technology will not necessarily be equally shared across all the segments of the cattle industry. In the past, APHIS has provided the states and accredited veterinarians with low frequency (LF) RFID tags as a no cost alternative to the metal clip tags available from APHIS for use in replacement heifers vaccinated against brucellosis, as well as for replacement

heifers in those states and herds that do not vaccinate against brucellosis. Does the agency have plans to encourage the transition to EID through the provision of low-cost or no-cost tags for replacement heifers in the first two years of implementation of the rule?

The proposed rule identifies a timeline for implementation occurring six months after the publication date of the final rule in the Federal Register. The agency anticipates implementation of EID as early as the first quarter of 2024 and NCBA agrees with this timeline. Additionally, NCBA is supportive of voluntary EID to ultimately include all classes of cattle by 2026. Does APHIS plan to identify in the final rule a coordinated plan and the availability of adequate resources to facilitate EID tag distribution and electronic CVI management through the current state and federal data systems as well as a plan that ensures the availability of adequate infrastructure at comingling points in the supply chain to facilitate the continued movement of cattle at the speed of commerce? The success of an EID traceability system depends on successful collaboration at all levels. NCBA encourages USDA to develop a framework by which all currently used EID tags could be used as official identification for cattle for animal disease traceability.

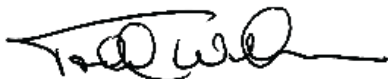
NCBA has identified some differences in the previous July 2020 RFID notice by the agency and the current proposed rule for EID tags. Stating that the agency now believes that the record-keeping requirements in 9 CFR 86.3 do not address record accuracy, quality, completeness, availability, and accessibility, APHIS requires in the proposed rule that the distribution of EID tags must be entered in a database designated by state, federal or tribal authority to be readily available (within 48 hours of request) and the records must be of sufficient accuracy, quality, and completeness to demonstrate compliance. As previously noted, NCBA's ADT policy priorities include the requirement that cattle identification information for animal disease traceability be kept confidential and strongly protected from disclosure. NCBA is concerned that personal information housed in the required state, federal and tribal databases could be released through a Freedom of Information Act (FOIA) request. Can the agency guarantee cattle producers that any information released to the public through FOIA or other means would have their personal and proprietary information redacted? To further ensure the privacy and integrity of a disease traceability system, the beef cattle industry will support the role of private industry as an Independent Database Collaborator.

## Conclusions

NCBA supports the enhanced animal disease traceability that will result from the APHIS proposed rule to transition to EID as the official identification for currently covered cattle and bison moving interstate. NCBA believes that separate rulemaking is required to phase in feeder cattle to EID. NCBA requests a commitment by USDA for improvements in information systems to share traceability data between regulatory agencies and state animal health officials as well as the need to provide continued resources to states to implement EID. Regarding the agency's timeline for implementation, NCBA advises a critical evaluation by USDA, APHIS to ensure that adequate resources are available to effectively execute their advanced technology proposal for cattle identification, and to include no cost or cost-sharing options for cattle producers to tag replacement heifers with EID as well as continued resource support to the state animal health authorities during the transition to EID.

NCBA looks forward to working with USDA, APHIS to implement the proposed rule for EID as the official identification of currently covered cattle and bison moving interstate as well as working together to address the issues that we have raised in our comments. If you have any questions or concerns, please contact , Rebecca Barnett, Director of Animal Health and Food Safety Policy or Allison Rivera, Executive Director of Government Affairs at (202) 347-0228 or at [rbarnett@beef.org](mailto:rbarnett@beef.org) or [arivera@beef.org](mailto:arivera@beef.org) respectively.

Sincerely,



Todd Wilkinson

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