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December 9, 2011

Docket No. APHIS-2009-0091  
RIN 0579-AD24  
Regulatory Analysis and Development  
PPD, APHIS, Station 3A-03.8  
4700 River Road Unit 118,  
Riverdale, MD 20737-1238

**RE: Comments on *Traceability for Livestock Moving Interstate* (Docket No. APHIS-2009-0091; RIN 0579-AD24)**

On behalf of the South Dakota Cattlemen's Association and our 1000 beef producer members, we appreciate the opportunity to comment on the United States Department of Agriculture Animal and Plant Health Inspection Service's (USDA APHIS) proposed rule, "*Traceability for Livestock Moving Interstate*," (Docket No. APHIS-2009-0091).

SDCA supports the comments of the National Cattlemen's Beef Association and incorporate them into our comments.

The goal of any identification program should be to enable the cattle industry and state and federal animal health officials to respond rapidly and effectively to animal health emergencies. SDCA supports animal identification for animal health purposes and our policy specifically supports mandatory identification of breeding age cattle to help mitigate the economic impact of a potential outbreak of a highly contagious cattle disease. SDCA policy also supports the following principals for any Animal Disease Traceability program:

1. Once official identification is applied to an animal it should not be removed or tampered with except at slaughter or to replace a failed device.
2. Costs of developing the infrastructure at marketing points should be borne by the government, and operational costs should be borne by both producers and the government.
3. The system must be able to evolve with changes in technology and information without major costs or renovation.
4. ID methods should be market driven.
5. All information must be electronically transferable.
6. The trace back goal should be 48 hours.
7. All breeding cattle should carry an individual and unique ID number upon change of ownership.
8. Brands and inspection systems are adequate for ownership verification but are not adequate for individual animal ID and trace-back.
9. Duly registered methods of identification also be considered legal proof of ownership.
10. Public and private databases and systems must be compatible with one another, and they must guarantee the security of the individuals' information for both marketing and regulatory programs.
11. Confidentiality of information is of utmost concern as well as cost efficiency and effectiveness.
12. All feeder cattle should be exempt for the purpose of this rule. If not exempted, the compliance threshold for Phase 1 should be at least 90% prior to the inclusion of feeder cattle.

### **Identification Programs Currently in Place:**

Our industry currently utilizes identification to, and supports voluntary adoption of, individual animal identification programs for age and source verification programs, grid marketing programs, and other methods where individual animals are tracked through the production chain so as to enhance genetic improvement decision-making. Additionally, Beef Quality Assurance (BQA) and other management programs that utilize individual animal identification have become more widely adopted across the country. In addition, existing animal disease programs (such as the bangs program) also require individual animal identification. These existing programs should be acceptable to meet the requirements for any new federal or State/Tribal Animal Disease Traceability (ADT) program.

Access to the confidential information contained in any animal health databases should be restricted to producers and officials of federal and state animal health agencies related to efforts to prevent the introduction of diseases, their control, eradication and the reemergence of disease. Producers should be provided an opportunity to periodically review their individual data in a system.

### **A phased-in approach:**

SDCA urges APHIS to consider a complete exemption of feeder cattle from the proposed Animal Disease Traceability program. While we appreciate a phased-in approach, the process for potentially including younger cattle will need a very careful look and much discussion within our industry, with States and with APHIS. If an outright exemption of feeder cattle is not acceptable, we ask APHIS to consider increasing the age limit for inclusion in Phase 1 from cattle over 18 months to cattle over 24 months of age to ensure traceability for breeding animals can be obtained prior to adding millions more cattle into the system.

APHIS states the purpose of this rulemaking is to improve the agency's ability to trace certain livestock moving interstate in the event a disease is found. The ability to evaluate and apply lessons learned from Phase 1, a risk-based phase-in and overall methodology, and a thoroughly evaluated cost/benefit approach is necessary to achieve this purpose without causing unintended harm to beef producers. For these reasons, SDCA would prefer a separate proposed rulemaking process for Phase 2 currently included in the proposed rule. If APHIS does not initiate "Phase 2" (currently proposed as less than 18 month of age) cattle as a separate rule-making process, then SDCA cannot be supportive of this proposed rule as currently written.

### **States/Tribes Performance Standards:**

In February, 2010 APHIS proposed performance standards for states and tribes, indicating if they couldn't meet those standards, APHIS would impose additional requirements. These initial performance standards were not realistic and would have had a negative impact on states and producers. APHIS did not indicate any assessment, evaluation or help to states who did not meet their performance standards. With South Dakota, like many other states, struggling with declining budget and human and technology resources, it would be prudent for the Federal government to first ascertain why a state/tribe was not meeting the proposed performance standards before punishing them and the producers in that state with more requirements.

APHIS now indicates they will publish State Performance Standards under a future second rulemaking. SDCA believes it's imperative for beef producers and state animal health officials to be actively engaged prior to rulemaking to ensure proposed performance standards are workable for industry. We would additionally prefer the proposed ADT rule NOT be finalized until the State and Tribal Performance Standards are established since successful implementation of the rule is predicated on the level of performance reached by the states/tribes.

### **Assessment:**

The trigger threshold for successful implementation of Phase 2 must be more clearly defined. Industry stakeholders remain confused as to what the 70% trigger actually represents in determining compliance with the ADT requirements for the purpose of moving into Phase 2. Therefore, the Phase 1 assessment process

should not be based on some arbitrary compliance number, especially if that number is open to interpretation. We also recommend repeating the Phase 1 assessment process periodically to gauge the program's ongoing level of performance at the state and federal level. Of equal importance in insuring stakeholder confidence and acceptance of the ADT program in general and most specifically the Phase 1 assessment process, the methodology and analysis of the assessment data must be performed in an open and independent manner by a credible non-biased federal agency or independent contractor acceptable to all directly affected stakeholders. Transparency and clarity throughout the entire process is paramount to its success.

### **Official Identification:**

The proposed rule would prohibit multiple official identification devices or methods on the same animal, with certain exceptions. This requirement, in the proposed rule, is unclear as currently written. As we currently understand, APHIS has indicated that multiple official identification devices of different types may be utilized and that the prohibition in the proposed rule to an animal having more than one official identification device or method refers to the presence of two of the same type of identifier. It also appears to require that a producer get clearance from the state or tribe animal health official to apply more than one different official device or method in an animal. This is unnecessary government intrusion into a rancher's daily management practices and business. And it certainly does not improve cattle identification for cattle health purposes. If this is correct, it seems an unnecessary additional regulatory burden with no readily apparent justification.

Given the many family operations of small and varying sizes that currently utilize cattle identification methods and devices that work for their regions and business/marketing models, this prohibition appears to cause potential disruption and harm without solving any apparent problem. Thus we recommend APHIS allow more than one different official identification method or device at the individual rancher's discretion in cattle for interstate movement, with appropriate documentary linking of the multiple methods/devices in the individual animal as needed and no unnecessary additionally regulatory approval requirement.

**Other Tagging Issues:** The proposed rule does not allow an option for an owner/shipper, who lacks adequate tagging facilities or equipment, when selling direct to a buyer in another state to have the cattle tagged at the receiving location with the owner/shipper's tags. Such an option should be permitted if the animals are accompanied by an owner/shipper statement for classes of cattle not required to have their individual identification recorded on the owner/shipper statement (see section 90.1).

The use of backtags, as a "temporary" device for cattle 18 months of age or older moving direct to slaughter, would be phased out under the proposed ADT rule, once all cattle moving interstate are required to be tagged under Phase 2. APHIS has indicated that their decision to remove the backtag option for identifying adult cattle moving interstate direct to slaughter was based on their expectation that once all cattle are identified in Phase 2, most adult animals moving direct to slaughter will already be identified with an official eartag. USDA however presents no solid evidence to support their assumptions in this regard. Nonetheless all the good reasons for using the backtag for identifying 18 months of age or older cattle going direct to slaughter, such as reduced stress on the animals, optimum speed of commerce, animal handling/welfare, worker safety, low-cost efficient tagging, etc., remain once Phase 2 for all cattle is implemented. Properly applied, backtags are as good as other identification devices or methods for tracing adult animals going direct to slaughter. Also, since small cattle operations typically use livestock markets to sell their adult cattle going direct to slaughter, the economic burden for requiring an eartag in adult animals that do not already have an official eartag, would be placed directly on small production operations and livestock market operations. Without a better justification or rationale based on disease risk for eliminating the use of the backtag in Phase 2, USDA should allow the continued use of backtags in identifying cattle moving interstate direct to slaughter once all cattle are subject to the program.

The APHIS ADT General Standards Document Version 1.1 dated March 18, 2011 was published as supplemental material to the ADT proposed rule and indicates APHIS intends to phase out manufacturer

coded tags (982, 985, etc). Recognizing there are a number of cattle that are already identified for herd management and marketing purposes with manufacturer coded tags, we recommend these tags continue to be allowed and recognized as official identification for interstate movement. Discontinuing use of these tags would economically harm many producers who have already invested significant resources in identifying their cattle with manufacturer coded tags for management purposes or to participate in the very successful voluntary PVP and QSA programs.

It is understood that obtaining location data on the user of these privately issued tags for animal disease traceability is a concern and why. However, we encourage APHIS to continue to allow the use of manufacturer coded tags as official identification for interstate movement under the following circumstances:

- Cattle that have been enrolled in an AMS recognized PVP or QSA programs. (We recognize that this may require additional cooperation between AMS and APHIS).
- Producers using manufacturer coded tags for animal disease identification and traceability for interstate movement would provide a list of the tag numbers associated with their animals to their state or tribe animal health official.
- Private organizations or marketing entities, in cooperation with state and tribe animal health officials, could coordinate application, recording and/or management of the manufacturer coded identification numbers.

The proposed rule also does not permit producers to obtain a duplicate replacement animal identification number (AIN)/840 numbered tags where a tag has been lost or is no longer a viable tag. Because these tags are often used for management purposes in many dairies and some beef operations, and where there are records available to track a specific identification tag to a specific animal, provision should be made in the final rule to allow producers to obtain duplicate AIN/840 tags for those being replaced due to loss or other reasons in order to maintain the viability and integrity of the national traceability system.

The proposed rule requires that tags be collected and made available to APHIS at slaughter. It does not require them to retire the tag number and record the retired tag or other identification methods for those states that would want the information. Before the proposed rule is finalized, APHIS must have a defined plan and agreement in place with the Food Safety Inspection Service (FSIS) and/or harvesting establishments relative to the collection and recording of retired tags at slaughter. Collection of tags and data entry at harvest will potentially require additional labor, increased funding and perhaps additional technology solutions as well as better communication between APHIS and FSIS and harvest establishments. None of this detailed information has been incorporated into APHIS' ADT plan to date, including the proposed rule. Thus, since this aspect of the program is a key component of a "bookend" traceability approach, we urge that it be given high priority in preparing for finalization and implementation of Phase 1 of the proposed rule.

### **Interstate Movement with an Interstate Certificate of Veterinary Inspection (ICVI):**

The cattle industry strongly supports exempting, under Phase 2 of the proposed rule, the recording of individual identification numbers on the ICVI or other approved owner/shipper documents for sexually intact cattle under 24 months of age or steers or spayed heifers; with the exception of sexually intact dairy cattle of any age or cattle or bison used for rodeo, exhibition or recreational purposes, which are required to be individually identified on the ICVI in Phase 1.

### **Exemptions to ICVI requirements:**

The use of alternative shipping documents to the ICVI should be permitted for all ages of cattle and bison where there is agreement between or among state and tribe animal health officials.

In recognition of the declining availability of veterinary coverage in many areas of the country to write ICVIs, other documents, such as a spreadsheet or other user-friendly, easily transmittable documents,

should be permitted between agreeing states and tribes. This practice already exists and is currently working well between and among states and tribes. Permitting other, possibly yet undefined animal health movement documents for all cattle, including sexually intact cattle over 24 months of age, allows the states and tribes greater flexibility in determining what works best for them in the transfer of animal movement information as well as would likely impose less of an economic burden on small livestock businesses.

The proposed rule indicates that the use of an electronic ICVI in tracking interstate cattle movements is not required but is permitted where available. The establishment of a fully functional uniform national electronic ICVI system is critical to the successful implementation of the ADT program, particularly in Phase 2. It is strongly recommended that a fully electronic ICVI system be in place in all the states and tribes as a prerequisite to moving onto the identification and traceability of all cattle.

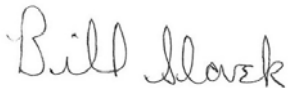
**Economic Analysis:**

Any additional cost to the system ultimately affects all. At this time we do not have enough information to accurately provide such information. Several major items that would affect this information remain outstanding, such as the State/Tribal Performance Standards. Additionally the economic analysis APHIS provided along with this proposed rule simply does not provide enough depth and information for agriculture economists and the cattle industry to be able to evaluate and provide constructive feedback. There also seems to be flaws in the information APHIS has supplied as part of their economic analysis.

Therefore we encourage APHIS to provide more information as well as discuss their economic assumptions with beef industry experts and agriculture economists in order to accurately assess the economic impact to producers of all sizes and the entire beef industry. This will be helpful, especially since declining federal and state budgets will demand wiser use of appropriated funds for any ADT program and the agency, States/Tribes and industry will need to prioritize funding.

SDCA commends APHIS for listening to concerns of beef producers while developing this traceability program. We encourage the agency to continue working with industry leaders on this and all animal health issues. Thank you for the opportunity to provide input on this important proposed rule. We look forward to working with APHIS on the issues we have raised in our comments.

Regards,



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