

The Cattle ID Group's (CIDG) Comments on USDA's Proposed Animal Disease Traceability Rule

In November 2009, a group of cattle industry organizations, which since has become known as the Cattle ID Group (CIDG), representing the beef, dairy and marketing sectors came together to develop a consensus on industry-directed principles for a national cattle identification (ID) and traceability plan, and to respond to anticipated U.S. Department of Agriculture (USDA) animal disease identification/traceability initiatives. The CIDG, which has grown to include thirteen national, regional and state cattle industry organizations, includes the American Angus Assn.; American Farm Bureau Federation, Dairy Farmers of America, Livestock Marketing Assn.; National Cattlemen's Beef Assn.; National Farmers Union; National Livestock Producers Assn.; National Milk Producers Federation; Red Angus Assn; Southeastern Livestock Network; Texas Cattle Feeders Assn.; Texas and Southwestern Cattle Raisers Assn.; and U.S. Cattlemen's Association.

Upon USDA's introduction of the Animal Disease Traceability (ADT) Framework, which adopted a number of the CIDG's principles for a national ID/traceability program, the CIDG has been actively involved in reviewing and commenting on the ADT Framework and its impact on the production and marketing sectors of the U. S. cattle industry. On August 9, 2011, USDA's Animal, Plant Health Inspection Service (APHIS) published a proposed rule establishing minimum national official identification and documentation requirements for the traceability of livestock moving interstate with an extended public comment period ending December 9, 2011.

The CIDG in their ongoing efforts to influence the establishment of a workable, practical, cost-effective national animal ID/traceability program has identified a number of issues associated with USDA's proposed ADT rule and related comments to help guide interested parties in formulating their own comments on the proposed ADT rule. The CIDG will not be submitting formal comments on USDA's proposed ADT rule but is leaving that task to each of the participating CIDG member organizations, so that they can address their own unique policy positions on USDA's ADT plan. It therefore should be noted that while there was general agreement among the CIDG on nearly all of the issues identified in this document, there remains some divergence of views on certain issues by certain individual CIDG organizations. Thus it is strongly suggested that cattle industry stakeholders consult their individual member or industry sector organizations if there is any doubt as to their position on the following ADT issues.

THE CIDG'S ISSUES AND COMMENTS ON USDA'S PROPOSED ADT RULE:

Identification/Tagging Issues:

1. The delisting of Brands as an official ID method for interstate movement.

Comment: Brands and tattoos should be retained as an official identification method for interstate movement by agreement of the shipping and receiving States and Tribes. A new subsection providing for the recognition of brands and tattoos as official identification would be accomplished by adding a new subsection (iii) to Section 90.4(a)(1) Official identification, to read: "(iii) Brands or tattoos when agreed upon by bilateral or multilateral agreement or memorandum(s) of understanding between or among agreeing shipping and receiving State(s) and Tribe(s) animal health officials."

Maintaining brands and tattoos as official identification would eliminate potential legal issues for States or Tribes where the brand is currently considered an "official" method of identification for traceability and ownership. Also, it would clearly resolve the issue of forcing the brand, as an "official" ID method, onto States or Tribes where the brand is not used or accepted as an official identification method thus making the federal preemption argument moot. The current recognition of brands as an official ID method is working today, even among brand and non-brand States and Tribes, so why delist it as an "official" method to accomplish the same end? Thus, we suggest that USDA recognize brands and tattoos as an official identification device or method for interstate movement where there is agreement between or among State(s) or Tribe(s) animal health officials. (See a separate discussion on the use of more than one official ID device or method in No. 4 of the ID/Tagging Issues topic.)

2. Tagging cattle moved interstate direct to a receiving location, other than to an approved livestock tagging site or approved livestock facility:

Comment: There is no option, under the proposed rule, 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 ID recorded on the owner/shipper statement, (see section 90.1). There is precedent for this option as USDA currently allows 840 AIN tags for USDA's process verified and quality systems assessment programs to be tagged at the receiving location with the owner/shipper's tags. Allowing producers, particularly small-size operators, to have their cattle tagged at their interstate destination with their tags, would provide greater flexibility to producers moving cattle directly across state lines and allow the smooth flow of commerce between and among states.

3. Elimination, in Phase 2, of the newly defined “temporary” backtag for cattle 18-months of age or older moving direct to slaughter.

Comment: 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. USDA/APHIS officials, in direct response to a question posed by the Cattle ID Group on the phase out of backtags, 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., do not go away once Phase 2 for all cattle is implemented. Properly applied, backtags are as good as other ID devices or methods for tracing adult animals going direct to slaughter. Also, since small-size cattle operations typically use livestock markets to sell their adult cattle direct to slaughter, the economic burden for requiring an eartag in adult animals that do not already have an official eartag, would be placed squarely on the backs of 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.

4. The proposed rule prohibits the “Use of more than one official identification device or method...” with certain exceptions.

Comment: 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. In a conference call with the CIDG, APHIS officials 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 ID device or method refers to the presence of two of the same type of identifier. For example, the application of more than one official metal eartag would be one of the concerns addressed by this requirement. Based on APHIS latest clarification of this requirement, it then would appear to be permissible for an animal to perhaps be identified with a official metal tag using a Location-based number (LID) or National Uniform Eartagging System (NUES) number, an official RFID eartag with an AIN number for herd management or marketing purposes and a brand supported by agreeing states?

This requirement respective to presence of more than one official ID device or method on an animal needs to be reworded and made clear in the final rule and clearly stated as to the purpose of any

prohibition on the presence of two or more official identifiers of the same type or of different types. The industry needs clarification on the following: if 840 tags may be applied to an already officially identified animal with another ID number, as the proposed rule seems to permit, can other ID devices or methods of a different type or purpose be utilized and under what circumstances? What is the justification and purpose of the agency not allowing more than one official different ID device or method? Also, if USDA is to allow brands and tattoos to continue to be listed as an official identification method between or among agreeing States and Tribes, then the current prohibition on a different second official device or method would preclude the addition of an official eartag in branded cattle moving interstate into non-brand or non-agreeing states to the use of a brand for interstate movement. Thus, the CIDG recommends USDA allow more than one different official ID device or method for interstate movement.

The requirement 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. If this is correct, it seems an unnecessary additional regulatory burden with no readily apparent justification.

5. The APHIS ADT General Standards Document Version 1.1 dated March 18, 2011 was published as supplemental material to the ADT proposed rule. Page 4, Table 1 footnote in this document states that APHIS intends on phasing out manufacturer coded tags (982, 985, etc). Specifically, "AINs with the alpha characters USA or the numeric code assigned to the manufacturer's ISO 11784/85-compliant identification device by the International Committee on Animal Recording may be used as alternatives to the 840 prefix until 1 year after the effective date of the final rule, APHIS Docket-2009-0091, 'Traceability of Livestock Moving Interstate'."

Comment: Recognizing there are a number of cattle that are already identified for herd management and marketing purposes with manufacturer coded tags, we recommend that these tags continue to be allowed and recognized as official identification for interstate movement. When the CIDG questioned APHIS officials as to why they were phasing out the use of manufacturer coded tags, their answer was: because there are no Premises or Location IDs associated with them. While that may be true for those manufacturer coded tags distributed through channels such as feed stores, etc., that is not the case with those associated with USDA's Agricultural Marketing Service's (AMS) Process Verified Program (PVP) and Quality System Assessment (QSA) voluntary programs. Many cattle have been successfully identified with manufacturer coded tags either through whole herd identification for management purposes or through such value-added marketing programs. 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. (For example, marketing programs for

replacement heifer sales or heifers marketed through PVP Age and Source Verified sales. These heifers would enter the breeding herd as virgin heifers and grow into source verified individuals.)

It seems contrary to the goals of the ADT program to allow flexibility in the identification of animals for interstate movement to eliminate producers' current wide use of manufacturer coded tags. 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, AMS programs provide more than appropriate location/owner information. Additionally, for those manufacturer coded tags distributed through feed stores or other venues, APHIS should consider allowing cattle producers who are not utilizing an AMS marketing program and wish to utilize manufacturer coded tags, to provide appropriate information to their State and Tribe animal health officials. APHIS has already established the precedent for this in the proposed rule by leaving it to the individual States and Tribes to determine how they will distribute other official eartags within their jurisdiction.

Specifically, manufacturer coded tags should continue to be considered 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 and indicate the appropriate Premises ID (PIN) or Location ID (LID) that is associated with those tags. For example, in the event of a traceback, an e-mail with the electronic ID in question could be sent to the State's or Tribe's animal health official. The electronic format of these numbers would facilitate quick cross reference of these numbers and the livestock facility of record associated with them.
- 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 ID numbers.

6. Replacement of non-viable or lost AIN/840 tags.

Comment: The proposed rule does not permit producers to obtain a duplicate replacement 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 ID 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.

7. 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 ID methods for those states that would want the information.

Comment: Before the proposed rule is finalized, APHIS must have a defined plan and agreement in place with FSIS and/or harvesting establishments relative to the collection and recording of retired tags at slaughter. Information from tags and brands are currently being lost and, in the past, has hampered disease traceouts. Failure to retire and record tags at slaughter could severely complicate the traceout of an animal with a duplicate ID number or a misrecorded ID number. This problem will be exacerbated with the implementation of each phase of the proposed ADT plan. 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 information has been included in 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)

1. The recording of individual identification numbers on the ICVI or other approved shipping/shipper documents is not required, under the proposed rule, for sexually intact cattle or bison under 18 months of age, or steers or spayed heifers, except for sexually intact dairy cattle of any age or cattle or bison used for rodeo, exhibition, or recreational purposes.

Comment: 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 18 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 individual identified on the ICVI in Phase 1.

2. Exemptions to ICVI requirements: Cattle less than 18-months of age may be moved interstate with documentation other than an ICVI, e.g. a brand inspection certificate, as agreed upon by State or Tribe animal health officials in the shipping and receiving States or Tribes. This exemption would not apply to sexually intact cattle or bison over 18-months of age or older.

Comment: 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 spreadsheets 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 defined animal health movement documents for all cattle, including sexually intact cattle over 18 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.

3. The use of an electronic ICVI in tracking interstate cattle movements is not required but is permitted where available.

Comment: The establishment of a fully functional uniform national electronic ICVI system is critical to the implementation of the ADT program, particularly in Phase II and the interstate movements associated with the introduction of 20-plus million feeder cattle into the program. 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. A uniform national electronic ICVI system would facilitate the recovery of traceability information upon the finding of an animal disease of importance as well as provide a level of traceability performance by the States and Tribes necessary to move onto the identification and traceability of all cattle in Phase II.

4. USDA has requested comments on the ICVI requirements, in particular the benefits of veterinary inspection in the cases where it is to be used. Also, they wish to receive comments on whether veterinary inspection, especially of large herds, will yield substantial benefit, and whether it will impose costs on businesses, particularly small or very small businesses?

Comment: It is widely established that there is a growing critical shortage of available accredited veterinarians to write health papers for interstate movement. Livestock markets, in particular, are currently finding it increasingly difficult to maintain veterinary coverage, as currently required by APHIS, to check for disease, write health papers and provide other critical veterinary services. As a result, the economic burden of maintaining required veterinary coverage is becoming so great as to threaten the economic viability of many livestock marketing businesses as well as cattle production operations in the marketing of cattle in interstate commerce. While there has been much discussion of late relative to the declining number of accredited large-animal veterinarians and some limited measures taken to reverse course in that regard, there is little prospect that those number will appreciably change anytime soon. Thus, the animal health community must begin to seek cost-effective, risk-based disease alternatives to animal health inspections that are of questionable or substantial benefit to maintaining the health of the national livestock herd.

Implementation of States and Tribes Traceability Performance Standards and Traceability Evaluations:

1. The Traceability Performance Standards, by which USDA would assess the ability of the States and Tribes to carry out the ADT program, has yet to be fully determined and are to be taken up in a separate rulemaking process. It is however USDA's current thinking that additional restrictions would be imposed on those States and Tribes failing to measure up to certain traceability performance criteria or levels of compliance.

Comment: USDA current thinking on the Traceability Performance Standards proposes to place greater restrictions and/or additional interstate movement requirements on those States and Tribes failing to fully measure up to the standards. It is understood that there needs to be a consistent level of performance by the States and Tribes in order to achieve successful implementation of the ADT program. However, it seems inherently counterproductive to the overall success of the ADT plan and ultimately harmful to cattle producers and livestock markets located in non-compliant states or tribes to punish them by placing more restrictions or requirements on an already failing system.

2. USDA's Traceability Performance Standards for the States and Tribes are described in the proposed rules as the Department's current thinking thus leaving them to be more fully established in a separate rulemaking process.

Comment: The proposed rule should not be finalized until State and Tribal Performance Standards are established through rulemaking. As much of the successful implementation of the proposed ADT rule is predicated on the level of performance reached by the States and Tribes in the identification and traceability of cattle moving interstate, it is inconceivable that the two can be separated or adopted independently of each other. Also, USDA will need the information gleaned from USDA's traceability "roadmap" exercise currently being carried out by State and Tribe animal health officials and expected to be completed in late 2011 or early 2012, before Traceability Performance Standards can be established. Thus, we strongly recommend that USDA complete the "roadmap" exercise and rulemaking on the Traceability Performance Standards before proceeding with final publication of the ADT rule for Phase 1.

The CIDG also request industry's active participation and discussion in the development of the ADT Traceability Performance Standards by APHIS and the States and Tribes. CIDG believes the lack of active industry stakeholder involvement in the deliberations of USDA's ADT Working Group, which was made up of Federal, State and Tribe officials only, directly impacted its failure to address many industry issues of concern throughout the development of the ADT plan and proposed rule.

Phase 1 Assessment:

1. Beginning one year after USDA has published a notice in the Federal Register that Phase 1 for adult cattle is being “implemented effectively throughout the production chain and that there is a 70 percent rate of compliance with the requirements...” all cattle and bison moving interstate must be “officially” identified. In reaching that determination, USDA intends to carry out an assessment of Phase 1 of the ADT program along with determining that there is a 70 percent rate of compliance with the requirements. That assessment process will be initiated by a notice published in the *Federal Register* describing the procedures to be used in the assessment as well as its objectives. A second notice of the availability of the Phase I assessment results then will be published in the *Federal Register* requesting comments from the public. A third and final notice in the *Federal Register* will be published discussing the comments on the assessment and announcing the date, one year after the date of publication of the notice, of implementation of the requirements for official identification of all cattle and bison in Phase 2 of the ADT program.

Comment: Industry stakeholders remain confused, after repeated attempts to get clarity on the issue from USDA/APHIS officials, as to what the 70 percent trigger actually represents in determining compliance with the ADT requirements for the purpose of moving into Phase 2. The Phase 1 assessment process therefore should not be based on some arbitrary compliance number, especially if that number is open to interpretation. Rather, the process should begin after a reasonable period of time, i.e., three years after implementation of Phase 1, in which stakeholders and service providers are given ample opportunity to implement the ADT program and sufficient time has passed allowing for its maturity in the marketplace. It is also recommended that the Phase 1 assessment process be repeated periodically in order to gauge the programs ongoing level of performance at the state and federal level in light of likely system and/or programmatic changes. Of equal importance in insuring stakeholder confidence and acceptance of the ADT program in general and most specifically the Phase I assessment process, the methodology and analysis of the assessment data must be performed in an open and independent manner by a credible federal agency or independent contractor acceptable to all program stakeholders. Transparency and clarity throughout the entire process will be paramount to its success.

As we look at the goals of the ADT program they can be summarized as follows:

1. Increase the percentage of mature cattle that are officially identified, and
2. Increase the traceability of those animals within a bookend system.

In assessing Phase 1 to determine if the goals of the program are being met before moving onto the identification of all cattle, reasonable and useful measurements for tracing identified animals back through the marketing and production chain will be needed to test the core functionality of the system in a way that will resonate strongly with all stakeholders. The core assessment questions

should be: (1) how many animals are identified, and (2) how many of them can be traced to some point in the production and marketing chain, within a reasonable period of time, that mimics a real world scenario when an actual animal disease event occurs. This approach will evaluate the varying components of the system by testing the core performance areas and will do so in a manner that will create a very marketable message as to the maturity and performance of the overall ADT system.

In that spirit, the following assessment model is offered for USDA's consideration:

1. Randomly select a statistically significant number of processors representing a statistically significant number of cattle 18 months of age or older presented for slaughter on a given day.
2. Measure the number of animals that are officially identified when presented at slaughter. The goal for this measure would be 98%.
3. Through the review of slaughter plant business records, identify those animals without an official ID and determine to the degree possible:
 - a. Were they ever identified?
 - b. With what form of ID were they identified?
 - c. When, where and why did they lose that ID?
4. Within the officially identified cattle population, additional performance measures would be:
 - a. What is the distribution of the various types of official ID devices/methods utilized in the identification cattle 18 months of age or older?
 - b. What percentage of the animals is accompanied by compliant documentation, such as ICVIs or other approved owner/shipper documents?
5. In order to measure the successful implementation of the different components and/or functionalities of the ADT system, establish through a statistically significant random sample of animals from within the officially identified cattle population, presented at slaughter, that:
 - a. 95% of the animals are traceable to the state of origin within 48 hours of processing of the animal.
 - b. 90% of the animals are traceable to the shipper within 72 hours.
 - c. 95% of the animals are traceable to the official ID application location within 72 hours.
 - d. 85% of the animals are traceable one step back from the shipper within 5 working days.

Note: The suggested percentages and timelines for the Phase 1 assessment are based on the CIDG's current understanding of and information provided in the proposed rule and could change as APHIS provides additional information in this regard.

Phase 2, the ID/traceability of all cattle moving interstate:

1. Under the proposed rule, Phase 2 requiring the identification of all cattle moving interstate would be initiated by a notice published in the *Federal Register* upon completion of the Phase 1 assessment and a determination that the ADT program can be successfully implemented in all cattle.

Comment: The Cattle Industry strongly opposes the implementation of the ADT requirements for “all cattle” in Phase 2 by *Federal Register* notice rather than through separate rulemaking! Since we cannot know, at this point, what adaptations will be needed to Phase 1 that could dramatically affect the program for younger cattle, it is unreasonable for the cattle industry to accept the introduction into the ADT program of 20-plus million cattle of less than 18 months of age by a simple notice in the *Federal Register*. Introducing that many cattle of a different class, presents a whole set of unique and significant considerations, such as increased complexities of identifying and tracing young cattle, the addition of huge numbers of cattle moving interstate, the potential for slowing the speed of commerce throughout the cattle production and marketing chain, managing the logistics of a multi-faceted feeder industry, the appreciably greater costs involved, disease risk associated with this group of cattle and perhaps numerous as yet unknown factors of substantive concern. Also, APHIS previously has indicated that there will be various and numerous technical and financial challenges involved in collecting and recording ID at slaughter for this class of cattle. It is for these very important reasons as well as others yet to be known, that the entry of this very large group of cattle into the ADT system be done through separate rulemaking. Separating Phase 2 from the current proposed rule, will assure that necessary identified changes to the ADT program resulting from implementation of Phase I can be scrutinized and adopted in a transparent process; that the cost, benefits and viability of Phase 2 can be thoroughly vetted by the industry as well as the States and Tribes in real time; and that all affected stakeholders have the opportunity to review and comment on this important next step in the ADT program.

We are also deeply concerned that USDA’s cost-benefit analysis may be flawed and not adequately represent the total cost to the cattle industry of Phase 1 and most particularly of Phase 2 of the program. Having the experience of Phase 1 may give us valuable cost-benefit information for Phase 2 that will need to be assessed and commented upon in a separate rule implementing Phase 2 of the ADT program. Lastly, the yet to be determined Traceability Performance Standards will have significant implications for what the states will have to do within their intrastate jurisdictions in order to meet them, which in turn affects how this larger more complicated cattle group is to be introduced into the ADT system.

We agree that under a disease risk-based approach, targeting older animals in the first phase of a risk-based animal identification/traceability program for animal disease purposes makes the most

sense. It is less clear where the currently exempted less than 18-months of age cattle rank in a risk-based approach, or even if there is a compelling reason to include all the less than 18 month of age cattle in stages or all at one time. Given the myriad issues yet to be determined with the inclusion of young cattle in the ADT program, USDA is strongly urged to reconsider embarking on Phase 2 by notice of this critical class of animals into the ADT system and instead embark on a separate rulemaking for Phase 2: all cattle, at the appropriate time.

Note: Preemption Authority. The CIDG is awaiting a survey of State and Tribe animal health officials on the question of whether USDA should be given federal preemption authority over the states and tribes in the identification and recording of individual ID numbers on the ICVI for feeder cattle. Any comments by the CIDG on this issue may be released under a separate cover, if and when available.

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