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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 [Insert date 90 days after date of publication in the Federal Register].

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.

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