



RE: Docket ID No. APHIS-2021-0020

February 27, 2024

Office of Management and Budget,

The Livestock Marketing Association (LMA) appreciates the opportunity to meet with the White House Office of Management and Budget concerning the January 19, 2023, notice in the Federal Register by the U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) regarding the Use of Electronic Identification (EID) Eartags as Official Identification in Cattle and Bison.

LMA represents local and regional livestock auction markets selling livestock on a commission basis for producers across the United States as well as related marketing businesses such as livestock dealers. LMA member markets have significant first-hand exposure to the Animal Disease Traceability (ADT) program as millions of cattle are identified at markets each year. Given this experience, our members offer in-depth perspectives on the traceability system.

LMA maintains the transition to electronic tags must be paired with sufficient public funds investment in tags, readers, and other infrastructure to warrant a rule change. Our members have questions about the cost of this rule, which are not covered in the Regulatory Impact Analysis.

Cost of Tags

Currently, USDA provides official identification devices, both National Uniform Eartagging Standards (NUES) tags, commonly called metal brite tags, and EID tags at no cost to producers. However, the Regulatory Impact Analysis (21-020-1 RIA, hereinafter RIA) includes an assumption that the federal government will not provide NUES or EID tags free of charge in the future (RIA pages 16 and 18).

What reason does USDA have for shifting the cost of tags from being USDA-provided to requiring farmers and ranchers pay for the tags?

Did USDA consider the alternative of continuing to provide EID tags?

According to the RIA, the proposed rule would increase the cost of tags from \$3.3 million annually to \$29.3 million annually. These numbers fail to paint the full picture. The \$3.3 million cost assumes producers (rather than USDA) are purchasing the NUES tags. However, this is currently not the case. USDA and states have provided producers with approximately 10.5 million free NUES tags a year, combined with approximately 700,000 veterinarian and producer-purchased non-EID visual tags annually (RIA page 9). This demonstrates less than 7 percent of the non-EID tags are currently procured at industry expense. Rather, these tags have been provided, primarily by USDA. This \$3.3 million cost estimate would be a new cost for most producers.

The analysis used to develop the \$29.3 million estimate is also flawed. This cost only accounts for those covered animals currently being identified by non-electronic tags annually. However, this fails to recognize the animals that are already being tagged with EID tags each year (RIA page 10). This oversight is particularly concerning because USDA has provided EID tags at no cost through states since Fiscal Year 2020. The cost of these tags should be taken into consideration in the big picture cost of a transition, particularly if the future availability of USDA-provided EID tags is in question.

How much has USDA spent each Fiscal Year on non-electronic tags since the Animal Disease Traceability rule was finalized in 2013? What source of funds was utilized?

How much has USDA spent on electronic tags in each Fiscal Year since 2020? What source of funds was utilized?

Does USDA have funding left for additional tag purchases or intentions to identify additional funding for future tag purchase?

As the RIA shows, the cost of tags disproportionately affects smaller producers who would have to pay more per tag than larger producers who would purchase in larger quantities (RIA pages 28 and 30). Alternatively, USDA is a high-volume buyer capable of receiving the best possible prices for tags through bulk purchasing. This issue would be addressed by a commitment by USDA to continue to provide official ID for covered animals.

The benefits of EID eartags stem from the increased ability of animal health officials to best complete their core duties to quickly trace, test, and quarantine possibly diseased animals. The tags proposed to improve the ability of government to complete this function should continue to be USDA-funded.

Cost of Readers and Related Infrastructure

Additionally, the RIA does not account for costs associated with purchasing readers (RIA page 15). USDA should also fully fund readers at livestock auctions as infrastructure. Electronic tags will provide no benefit to accuracy unless they are read electronically. While the ability to read tags visually provides necessary flexibility, investing in readers at collection points will help ensure the benefits of the technology are captured.

USDA expects a majority of entities that are involved in disease tracing (i.e. accredited veterinarians and animal health officials) to already have EID readers. However, the only information provided by USDA to demonstrate that adequate readers have been distributed was stating that federal funding was provided to states in ADT cooperative agreements. More information is needed to evaluate the infrastructure needs.

How many readers were purchased with cooperative agreement funds?

Are there remaining resources for additional readers?

Does USDA believe a slight or vast majority of accredited veterinarians currently have readers?

What percent of livestock auction markets have access to one or more EID reader? How is this broken down between the reader being provided to the market veterinarian, directly to the market, or to an animal health official present at sales?

In addition, USDA envisions the possibility of different technologies in the future. The supplementary information to this rule states, “Currently, the only official electronically readable identification tags are RFID tags; however, at some future time there may be other electronically readable technology. APHIS’ goal is to rapidly and accurately collect the tag numbers and be able to adapt to technological developments, not to codify RFID technology as the only technology option for traceability.” While this forward-looking approach will allow for the rule to evolve with future technology, we must also anticipate this could lead to new costs for facilities reading these new technologies.

Of the readers currently provided, what is the makeup of Low Frequency vs. Ultra High Frequency RFID technology?

Has USDA considered the infrastructure costs of keeping up with evolving future technology?

Electronic Data Sharing and Storage

Electronic sharing and storage of identification data is key to the functionality of this rule. In addition to tags and readers, data management and storage must be given due consideration. Investment is needed in systems to allow veterinary, tagging, and sale management systems to interact and share information such as ID numbers and addresses.

Has USDA considered additional infrastructure costs in addition to readers, such as computers and software systems capable of communicating data captured?

Has USDA considered the time and labor cost to industry of transitioning to systems capable of electronic reading?

Missing Information on Number of Cattle Tagged

USDA estimates for needed tags are based on the number of cattle currently tagged, which fails to account for animals that should be tagged currently but are not in compliance with the ADT rule. While compliance rates at livestock auction markets are high, significant concern exists about whether livestock sold in direct country transactions are abiding by the requirements.

What monitoring and enforcement of the current ADT rule occurs outside a livestock market environment?

What data does USDA have about compliance rate with the current ADT rule outside of a livestock market environment?

Additionally, proposed adjustments to the definition of dairy cattle are unnecessarily broad and would have the effect of prematurely expanding this rule to some feeder cattle. In particular, the proposed definition would apply dairy cattle requirements regardless of breed or current use to cattle “born on a dairy farm.” Many farms have dairy cattle used for milking and a separate beef cattle herd. As written, even beef breed cattle born into a beef operation would fall under additional requirements simply because that farm happens to also have a separate dairy herd. Additionally, the definition as proposed would expand the scope of dairy to include crossbred calves “born to dairy cattle.” This would take the growing number of beef-on-dairy cross calves that have been specifically bred to be part of the beef supply chain and classify them instead as dairy animals.

How many additional cattle does USDA estimate this rule will include with the expanded definitions of dairy?

Conclusion

USDA has a history of investing in traceability as a matter of national importance for our U.S. beef herd, food supply, and national security. It would be shortsighted to end the federal government’s long-standing support at the exact moment of requiring the cattle industry’s transition to a technology almost nine times as expensive as the current low-cost option.

More information is needed to fully analyze the alternative to the proposed rule of USDA continuing to provide required tags. Additionally, the costs of readers and other related infrastructure must be expanded upon to be accounted for in a wholesale cost analysis.

Thank you for the opportunity to meet. LMA is committed to remaining actively engaged in discussions regarding the current ADT rule and the future of traceability programs. If you desire clarification or additional conversation, please reach out to Chelsea Good, LMA Vice President of Government and Industry Affairs and Legal, at cgood@lmaweb.com or 816-305-9540.

Sincerely,

A handwritten signature in black ink that reads "Mark Barnett". The signature is written in a cursive, flowing style.

Mark Barnett

LMA President