

## Rep. Hageman Testimony

### Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Member Day Hearing

Tuesday, April 29, 2025

- Chairman Harris, Ranking Member Bishop, thank you for the opportunity to testify before your subcommittee today
- As you begin the fiscal year 2026 appropriations process, I encourage you to block the USDA from enforcing its recent regulation mandating electronic identification, or EID, eartags on cattle and bison moving interstate
- Ending this unlawful mandate and destructive policy is one of my constituents' top priorities along with thousands of ranchers and cattlemen across America, especially those independent and family-owned operations that make up the heart of the American West and our nation's food supply
- On November 5<sup>th</sup>, 2024, the Animal and Plant Health Inspection Service's final rule, *Use of Electronic Identification Eartags as Official Identification in Cattle and Bison*, went into effect.
- The rule amends the 2013 Animal Disease Traceability rule to mandate EID eartags for cattle and bison that move across state lines.
- Not only does USDA lack the authority to enforce such a mandate, but it ignored the devastating repercussions of this flawed policy and failed to follow the proper regulatory process
- Such repercussions include the destruction of thousands of small businesses and accelerated vertical integration of the food supply chain
- For states like Wyoming that lack major meat processing facilities, most livestock will be moved across state lines at some point during the life cycle to access the market. This subjects my constituents to this rule, while arbitrarily excluding their competitors in those states with packing operations.

- In its 2013 ADT rulemaking, the USDA estimated that the cost of a nationwide RFID system would be between \$1.2 and \$1.9 billion. Yet, USDA estimates that the current rule would cost just \$26.1 million annually
- This slight-of-hand was achieved by considering only the cost of the eartags themselves, ignoring all related compliance costs, including for wands, software, hardware, retrofitting of infrastructure, and labor, to implement a functioning EID system. They also included only 11% of the regulated community, thereby nullifying their claim that this rule is about disease traceability, with the USDA itself admitting that it must have 70% compliance for it to work for that purpose.
- I appreciate that over the last two years this subcommittee has sought to shield U.S. ranchers from the cost burden of this rule by providing \$15 million to the agency for implementation
- Unfortunately, these efforts have not protected the rancher, by no fault of this subcommittee. The underlying policy itself is flawed and there are simply no means to match the end it purports to achieve.
- In November as the regulated community was preparing for the rule to take effect, state veterinarians were already reporting a shortage of EID tags. This shortage continues to plague the system, forcing ranchers to buy more expensive tags or be noncompliant with the rule
- Throughout the rulemaking process, including in response to comments received about the proposed rule, USDA assured the regulated community that the eartag manufacturers were prepared to meet this rule
- Yet, the shortage persists, with states as recently as last week running out of tags and having to create back-order lists for producers who are now in violation
- Government mandates never result in decreasing the cost or increasing the supply of the mandated product, and the EID situation is no exception. Tag prices have skyrocketed, meaning the faulty \$26.1 million cost estimate is even more absurd as compared to the true cost
- If all this weren't bad enough, I reiterate that USDA does not possess the authority for such a rule. The EID final rule cites the Animal Health

Protection Act; Congress, however, did not empower USDA to use the AHPA to impose such a mandate

- The law also includes no provision allowing the USDA to impose criminal or civil penalties regarding violations of AHPA regulations, meaning it does not have the authority to implement the rule other than through the most extreme form of enforcement possible – denying access to the interstate cattle and bison markets, thereby essentially forcing bankruptcy for non-compliance.
- For this very reason and others, the rule is under an active legal challenge
- These policy shortcomings are a result of regulatory development malpractice. After determining the rule to be significant for Regulatory Flexibility Act purposes, and that a majority of the regulated community would be small businesses, USDA dismissed the rule's impact on small businesses based on outdated data and failed to conduct the legally required RFA analysis
- It failed entirely to conduct a federalism analysis, even though states have their own laws regarding animal traceability, and rigged the cost analysis as I discussed earlier
- These legal and good governance violations are endemic to the rule, a rule, mind you, that is a solution in search of a problem. The U.S. produces the healthiest and highest quality livestock and meat in the world.
- At its core, this rule was advocated for and drafted by big ag, the packers, and the eartag manufacturing companies, those corporate interests with the most to gain from this government mandate and who wanted federal subsidies to implement a system that the independent and small producers do not want and can't afford.
- The result? Massive harm to the American cattleman further perpetuating distrust of Washington, D.C. and the USDA
- In the face of the rule's continued operational failure, now is the time to act, and I urge your subcommittee to address this issue in the FY26 appropriations bill