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January 12, 2026

Shanerika M. Flemings
Assistant Chief Counsel
SBA Office of Advocacy
U.S. Small Business Administration

Sent via email: shanerika.flemings@sba.gov

Re: Written Feedback Regarding Regulations and Policies that Should be Repealed Because they Are Unnecessary and Unduly Encumber Independent U.S. cattle Producers.

Dear Ms. Flemings:

Below please find R-CALF USA's recommendations regarding the preferred disposition of certain USDA regulations, guidance, and enforcement practices that are adversely affecting food safety, U.S. livestock, independent U.S. cattle farmers and ranchers, consumers, and/or national security.

1. **Use of Electronic Identification Eartags as Official Identification in Cattle and Bison, Final Rule, Docket No. APHIS-2021-0020, 89 Fed Reg., 39,546-566, May 9, 2024.**
   - **a.** This Final Rule generally requires American ranchers to affix a Radio Frequency Identification (RFID) eartag on sexually intact adult cattle when shipped interstate and further requires an RFID eartag to be affixed on younger female cattle when they are vaccinated for brucellosis, even if those younger female cattle are not transported across state lines.
   - **b.** The Final Rule reneges on the promise made by APHIS in its Jan. 9, 2013 final rule, *Traceability for Livestock Moving Interstate*, 78 Fed. Reg., 2,040-075, that granted American ranchers flexibility in choosing among low-cost identification eartags or high-cost RFID eartags when shipping adult cattle across state lines. That promise of flexibility is now broken and ranchers are forced to use the highest-cost identification eartags – the RFID eartags. This, despite the fact that APHIS did not make a determination that the use of RFID tags was necessary. The American ranchers' cost of compliance with this Final Rule's mandate is estimated by APHIS to be $26.1 million per year. 89 Fed. Reg., 39,561. This is an added production cost on American ranchers and because it is government mandate, ranchers have no means of recovering this added cost from the marketplace.
   - **c.** This Final Rule should be repealed, which would reinstate the flexibility provisions in the 2013 Final Rule that are proven effective in achieving the disease traceback objectives of APHIS.

d. Repeal of the Final Rule will restore to American ranchers their liberty to choose which means of animal identification best fits their individual business operations.

e. Ranchers negatively impacted by the Final Rule include Kenny Fox, PO Box 37, Belvidere, SD 57521, (605-344-2516 H), (605-685-3434 C), foxranch@gwtc.net, and Judy McCullough, 116 D Rd, Moorcroft, WY 82721, (307-680-4591 C), jmccullough@collinscom.net.

2. **Importation of Fresh Beef from Paraguay, Final Rule, Docket No. APHIS-2018-0007, 88 Fed. Reg., 77,883-888, Nov. 14, 2023.**

   a. Paraguay is not free of foot-and-mouth disease (FMD), which is a highly contagious disease of cloven-hoofed animals like cattle. For this reason, the U.S. had banned fresh beef from Paraguay for over a quarter century. The USDA estimates that the consequence of an FMD outbreak in the United States would be losses over a 15-year period of between $37 billion to $42 billion.

   b. While the last known FMD outbreak in Paraguay occurred in 2011, the last on-site evaluation of the risks of FMD in Paraguay conducted by APHIS occurred in 2014, nearly a decade before issuance of the Final Rule. 88 Fed. Reg., 77,994. Moreover, APHIS' latest risk analysis for further determining the health and safety risks of fresh Paraguayan beef for both humans and animals was completed in 2018, about five-years prior to the Final Rule. *Id*. The Final Rule exposes the U.S. food supply and U.S. livestock to an unnecessary and avoidable risk of introducing FMD or other foreign animal diseases into the United States.

   c. The Final Rule should be repealed as was called for by the Senate's passage of Senate Joint Resolution 62, which passed the U.S. Senate by a 70-25 margin in March, 2024. https://www.congress.gov/bill/118th-congress/senate-joint-resolution/62/all-actions. The importation of fresh beef from Paraguay should remained banned until APHIS conducts a comprehensive, on-site evaluation and risk analysis of Paraguay's food safety and beef production systems.

   d. A veterinarian who can address the risks of FMD from Paraguay is Robert (Max) Thornsberry, D.V.M., PO Box 818, Richland, MO 65556, (573-257-0723 C), rthornsberry53@gmail.com.

3. **Confidentiality Guidelines for the Livestock Mandatory Reporting Program (The 3/70/20 confidentiality guideline) Administered by the USDA Agricultural Marketing Service (AMS).** Microsoft Word - Confidentiality Guidelines for the Livestock Mandatory.

   a. The Livestock Mandatory Reporting Act of 1999 requires USDA to publish mandatory data on livestock and meat price trends, contracting arrangements, and supply and demand conditions. This information is vital to America's ranchers as it is the only price discovery mechanism for ascertaining the price of fed cattle due the highly concentrated nature of the fed cattle market and the cattle procurement methods used by the Big 4 beef packers, which control about 80% of the fed cattle market. However, the USDA AMS has adopted what is called the 3/70/20 confidentiality guideline claiming it is necessary to preserve the confidentiality of the large beef packers that purchase cattle. As a direct result of these confidentiality guidelines, U.S. ranchers have not received any pricing data for fed cattle sold in the entire state of Colorado for the past seven years.

   b. Colorado is one of five regions in the USDA AMS's designated 5-Area cattle procurement regions. The omission of pricing data from all of Colorado (and perhaps from portions of the other four regions) obviously harms America's ranchers as they now receive only partial price data and this disadvantages them when selling their cattle to the highly concentrated

beef packers who have superior information as to the market value of cattle. Moreover, because the current price of fed cattle translates to the value of all lighter weight cattle (i.e., the value of lighter weight cattle is the expected future value when they are eventually sold to the packer), this lack of price transparency negatively impacts all ranchers.

c. The 3/70/20 confidentiality guideline should be repealed as it is precisely in regions where packer concentration is the highest that full price transparency is needed most. The USDA AMS can meet its confidentiality obligations simply by not disclosing the various entities who purchase the cattle within the price reporting regions.

d. Repeal of the 3/70/20 confidentiality guidelines would impart greater price transparency thus leveling the information disparity now existing between independent ranchers and the highly concentrated beef packers.

e. Ranchers who could speak to the lack of needed price transparency resulting from the current confidentiality guidelines are: Eric Nelson, 1514 Jasper Ave, Moville, IA 51039 (712-873-3144 H) (712-540-5633 C), efarrisnelson@gmail.com and Brett Kenzy, 33442 264th St, Gregory, SD 57533 (605-830-9860), kenzyranch@yahoo.com.

4. Beef Promotion and Research Order, 7 CFR Part 1260, Subpart A.

a. The Beef Promotion and Research Act (Act) is a mandatory checkoff program that assesses a fee of $1 per head of cattle sold from America's ranchers, generating about $80 million annually, to be used for beef promotion and research. The implementing Order, however, put outsized control over the program into the hands of a private organization that represents beef packers.

b. The Beef Promotion and Research Act envisioned monetary dispersals would be decided by independent cattle producers appointed by the Secretary and a "federation" consisting of cattle producers who were also directors of existing state beef councils. *See* 7 U.S.C. § 2904 (4)(A). Congress did not intend to specifically name a private organization as the "federation." If it did, it would have done so. But the Secretary of Agriculture did what Congress chose not to do and defined the "federation" as a specific private entity consisting of meatpackers that purported to represent the various state beef councils – the Beef Industry Council of the National Live Stock and Meat Board, or any successor organization to the Beef Industry Council. See 7 CFR § 1260.112.

c. As a result of the USDA's Order, and the subsequent merger between the Beef Industry Council and the National Cattlemen's Association, Congress unwittingly granted a private entity – the National Cattlemen's Beef Association (NCBA), which became the successor to the Beef Industry Council and which represents both packers and producers, outsized control over disbursements and control over the mandatory checkoff program.

d. Unsurprisingly, the NCBA receives the vast majority of beef checkoff funds – tens of millions of dollars each year, and this money affords the NCBA an outsized influence over national public policy issues impacting every American rancher.

e. Consequently, the voices of the many independent ranchers who have long sought policy reforms to level the market disparity between them and the highly concentrated beef packers have been suppressed by the overwhelming advantage enjoyed by industry lobbying organizations that continue to receive tens of millions of dollars from the beef checkoff program.

f. The Order should be repealed and rewritten to ensure that private lobbying groups do not receive any of the mandatory assessments collected from independent ranchers. This action

would ensure that the government-mandated beef checkoff program remains independent and disconnected from private efforts to influence governmental policy or action.

g. Ranchers who can speak to the need to repeal the Order include Brett Kenzy, 33442 264th St, Gregory, SD 57533 (605-830-9860), kenzyranch@yahoo.com; and Eric Gropper, PO Box 9, Long Valley, SD 57547 (605-454-2053), egropper@live.com.

5. **Veterinary Feed Directive, Docket No. FDA-2010-N-0155, 80 Fed. Reg., 31,708-735, June 3, 2015,** Veterinary Feed Directive (VFD) | FDA.

   a. In general, the Veterinary Feed Directive (VFD) requires domestic cattle producers to obtain a prescription (certification) from a veterinarian before administering antibiotics to livestock through feed or water.

   b. Because this directive applies only to U.S. cattle producers, and not to foreign cattle producers that export large quantities of cattle and beef to the United States, domestic cattle producers, whose cost of production is increased by this regulation, are disadvantaged in the marketplace when competing with foreign cattle and beef suppliers who are not encumbered by this added cost. Moreover, the public is unable to choose to buy beef from animals subject to this regulatory requirement (i.e., from cattle born and raised in the United States) because the marketplace is void of mandatory country of origin labels on beef. Thus, the public's health and safety are not protected by the regulatory burden created by the VFD as they are as likely as not to be purchasing foreign beef not subject to the mandate in their local grocery stores.

   c. United States cattle producers report that this new regulation has increased their cost of production, decreased the availability of in-feed antibiotics, and increased the difficulty of obtaining such antibiotics for therapeutic use.

   d. The Veterinary Feed Directive should be repealed until and unless the United States imposes an identical requirement on all imported cattle and all beef from imported cattle. The fact that imported cattle and beef are allowed to be produced without the encumbrance of this directive indicates it is not considered a food safety necessity, and the U.S. government should not be imposing mandates that reduce the competitiveness of American ranchers.

   e. Ranchers who can speak to the disadvantage they experience as a result of this directive include: Dave Hyde, 2426 County Road 39, Bloomingdale, OH 43910 (740-381-2699), dhydefarm@windstream.net; and Mario Tarango, 510 Pool Branch Rd, Fort Meade, FL 33841 (863-698-2978), mthorseandcattle@yahoo.com.

6. **Food and Drug Administration Guidance for Industry (GFI) No. 263, GFI #263: Frequently Asked Questions for Farmers and Ranchers | FDA.**

   a. Since June 11, 2023, many important over-the-counter antibiotics for cattle and sheep now require a veterinary prescription.

   b. Domestic cattle producers have reported that eliminating the availability of life-saving antibiotics in local livestock feed stores has delayed the timely treatment of their livestock, particularly in remote regions and in regions where access to large animal veterinarians is limited.

   c. Domestic cattle producers further report that this new guidance increases their cost of production and reduces their competitiveness vis-à-vis their foreign counterparts, whose access to such important antibiotics is not similarly constrained.

   d. It is R-CALF USA's understanding that imported livestock and meat from imported livestock are not subject to this new requirement and, therefore, the guidance falls well short of its

stated goal of combatting antimicrobial resistance (AMR), which the FDA asserts is a threat to both animal and public health.

e. GFI No. 263 should be repealed until and unless the United States requires the production of all imported livestock be identically subject to this new restriction during their entire life cycles and all livestock from which imported meat is derived are also subject to an identical requirement.

f. Ranchers who can speak to the disadvantage they experience as a result of this directive include: Dave Hyde, 2426 County Road 39, Bloomingdale, OH 43910 (740-381-2699), dhydefarm@windstream.net; and Mario Tarango, 510 Pool Branch Rd, Fort Meade, FL 33841 (863-698-2978), mthorseandcattle@yahoo.com.

7. **Products From Foreign Countries; Eligibility for Import Into the United States, Direct Final Rule, Docket No. 95–003F, 60 Fed. Reg., 38,667-668, July 28, 1995**.

a. In 1995 the U.S. Department of Agriculture significantly weakened U.S. food safety requirements for imported meat and poultry by repealing the requirement that foreign countries must have food safety inspection systems that are at least equal to that of the United States. Now, their systems need only be close enough under the far more relaxed standard of equivalency. The Final Rule states:

> Under this new law [The Uruguay Round Agreements Act], drafted to comply with GATT, the United States can no longer require foreign countries wishing to export meat and poultry products to have meat and poultry inspection systems that are ''at least equal'' to those in the United States; instead, foreign inspection systems must be ''equivalent to'' domestic inspection systems.

b. As a result of this weakened food safety standard for imports, American consumers are subject to undifferentiated meat and poultry products in their grocery stores that are produced under lesser food safety standards than are domestic meat and poultry, and American ranchers are economically disadvantaged in their own market because the meat derived from their livestock is produced under higher standards, which is more expensive to achieve.

c. The Final Rule should be repealed and the "at least equal" to standard should be reinstated for all imported meat and livestock.

8. **Frequency of Foreign Inspection System Supervisory Visits to Certified Foreign Establishments, Final Rule, Docket No. FSIS-2005-0026, August 3, 2006.**

a. Prior to 2006, the USDA FSIS required monthly foreign inspection system supervisory visits for all foreign meatpacking plants eligible to export meat to the United States. But some foreign countries complained that such inspections were unfair and the FSIS interpreted its obligation under the World Trade Organization as necessitating a relaxation of its monthly inspection requirement. *See* 69 Fed. Reg., 51,194-196. As a result, the FSIS issued this Final Rule in 2006, deleting the requirement that supervisory visits take place 'not less frequent[ly] than one such visit per month.' Now, FSIS requires foreign inspection systems to make only "periodic supervisory visits" to certified establishments.

b. The relaxation of FSIS's monthly supervisory visit requirement likely contributed to the United States' failure to timely identify Brazil's food safety scandal known as "Operation Weak Meat" that began in early 2017 and in which Brazilian meatpackers were found by Brazilian authorities to be exporting tainted and adulterated meat around the world, including to the United States.

c. This Final Rule should be repealed, and the FSIS should reinstate its monthly supervisory visit requirement for all foreign meatpacking plants to ensure the safety of meat imported into the United States.

9. APHIS Policy Regarding Importation of Animals and Animal Products, Notice, 62 Fed. Reg., 56,027-033, October 28, 1997.

a. Prior to 1997, APHIS determined a foreign country's animal disease status based on the presence or absence of a particular disease within the country's borders. If such pernicious diseases as foot-and-mouth disease (FMD) or bovine spongiform encephalopathy (BSE) were known to exist within a country's borders, that country would be ineligible to export meat or livestock that could transmit the disease to the United States. However, citing its desire to be consistent with and to meet the requirements of international trade agreements recently entered into by the United States, principally the World Trade Organization, APHIS issued the above-captioned Notice that relaxes the United States' longstanding and effective means of preventing the introduction of foreign animal diseases by beginning a process of "regionalization." Under regionalization, a country with a pernicious disease would be carved out into regions where the particular disease was known to exist and where it was not known to exist.

b. As a result of this significant relaxation of U.S. import restrictions for disease-affected countries, the U.S. began allowing imports from regions in a country where FMD was not believed to exist, only to have to initiate emergency action to halt imports upon reports of new FMD outbreaks. Several such "near-misses" have occurred since this Notice. In 1997, APHIS resumed imports from Argentina under its regionalization scheme but had to take emergency action to cease imports in 2001 amid widespread FMD outbreaks in that country. In 2000, APHIS allowed imports from Uruguay under its regionalization scheme only to have to cease imports in 2001 in the wake of widespread FMD outbreaks. From 2000 to 2010, similar near misses occurred after APHIS' regionalization of South Africa, South Korea, and Japan.

c. APHIS' regionalization scheme should be repealed as it significantly increases the risk of foreign animal disease introduction into the United States, which threatens food safety, U.S. livestock, and national security.

Sincerely,

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