

Official Advisory
USDA Secretary's Advisory Committee on Animal Health (SACAH)

Preamble

As the proposed rule on animal disease traceability (ADT) makes its way through the Department's regulatory clearance, SACAH appreciates the opportunity to consider various aspects of ADT and advance recommendations. The Committee focused most of its second public meeting (March 4, 2011) on addressing any primary concerns expressed by agricultural stakeholders who would be affected by the rule. The Committee identified and discussed nine areas of concern:

- Role of brands
- Avoidance of an unfunded mandate scenario
- Inclusion of feeder cattle
- Security and confidentiality of the information collected
- Extension of the comment period for the proposed rule
- Maintaining the speed of commerce
- Technology for both identification devices and certificates of veterinary inspection
- Tribal sovereignty
- Statement of the objectives of the framework and the problems it is intended to address

Given that the text of the proposed rule is not available to us at this time, the deliberations were a challenge. Therefore, the Committee plans to revisit these, and perhaps other, issues once the proposed rule is published. For now, the Committee makes the following recommendations on two of the areas identified above: (1) avoidance of an unfunded mandate scenario and (2) extension of the comment period for the proposed rule.

Avoidance of an unfunded mandate scenario

Issue: Information technology, data management, tags, and other performance requirements could impose costs that would burden stakeholders.

Discussion: USDA staff indicated that costs will be supported through cooperative agreements with the States. Producers will not have to enter information on tag distribution or registration of animals; they need only obtain and apply tags. State Animal Health Officials and (Federal) Area Veterinarians in Charge would be responsible for data and records maintenance. Though the

budget has not yet passed, the Agency has requested \$14 million for ADT and will work with States to support implementation of the rule. Information technology support would be funded with conditions (e.g., States would be offered certain kinds of funding and support).

Most States will not have additional funding for databases and recordkeeping and will look to Washington for resources. It might be difficult for States to meet the performance requirements without these resources, creating an unfunded mandate. The Committee's recommendation addresses potential costs to producers, States, and others from new requirements.

Committee Recommendation: The proposed rule should incorporate concrete provisions to ensure it will not result in an unfunded mandate. The proposed rule should provide that the regulatory requirements will be suspended if, at any point, there is insufficient funding, specifically for the costs to producers for identification devices; costs to States for necessary personnel and technology; and the costs to other impacted individuals (such as veterinarians, sales facilities, and other market facilitators) for any mandated practices and technology.

Extension of the comment period for the proposed rule

Issue: The proposed rule for animal disease traceability will be published during a busy season for those in agriculture, and many individuals will be impacted.

Discussion: Many stakeholders expressed the need for additional time beyond the usual 60-day comment period to review the rule and think through its consequences. A 90- to 120-day comment period would allow time for outreach to stakeholders, for the Tribes to better understand how the rule will affect their Nations, and for further discussion among stakeholders who would be affected by the rule. Other stakeholders expressed a concern that, if the comment period is extended, it would delay the publication date for the final rule currently slated for April 2012. As a result, the final rule might not be completed under the current Administration. The USDA staff indicated that they would do their best to keep to the schedule, but acknowledged that extending the comment period would most likely delay publication of the final rule for at least some amount of time.

Committee Recommendation: The comment period for the proposed rule should be extended to 120 days.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Donald E. Hoenig". The signature is written in a cursive style with a stylized "H" and "O".

Dr. Donald E. Hoenig
Chairperson