



Hamburger Group Sues to Protect Cattle Ranchers from USDA's Unlawful RFID Animal Identification Mandate

R-CALF USA v. United States Department of Agriculture, et al.

Washington, D.C.—The New Civil Liberties Alliance today filed a [complaint](#) with the District Court of Wyoming against the United States Department of Agriculture (USDA) and the Secretary of Agriculture Sonny Perdue, as well as the Animal and Plant Health Inspection Service (APHIS) and USDA Administrator for APHIS Kevin Shae. NCLA is asking the Court to stop USDA from enforcing the Radio Frequency Identification (RFID) mandate and the agency's requirement that cattle producers obtain a premises identification number (PIN) for bison and cattle moving across state lines because these agencies have acted beyond the scope of their legal authority to adopt regulatory guidance and in violation of the animal identification rule issued in 2013.

NCLA represents the Ranchers Cattlemen Action Legal Fund United Stockgrowers of America (R-CALF USA) and four ranchers: Tracy and Donna Hunt from Wyoming, and Kenny and Roxy Fox from South Dakota, who are challenging the mandate for violating current traceability regulations, the Administrative Procedure Act (APA), the Federal Advisory Committee Act (FACA) and the Regulatory Flexibility Act (RFA).

The 2013 Final Rule was designed to protect producers' right to use low-cost technologies related to animal identification and traceability that have been used for generations and are both flexible and adaptable. But just six years later, the 2019 RFID mandate requires the least flexible and costliest identification methodology available. The mandate forces cattle producers to put the RFID ear tags on livestock destined for market and to do away with animal identification options that up to now had been perfectly acceptable, including tattoos, backtags, permanent metal eartags, brands, and group/lot identification. The complaint also takes issue with the fact that the agencies established one or more "advisory committee(s)" without complying with the requirements of FACA including the exclusion of groups or parties who are opposed to the RFID Plan.

NCLA released the following statements:

"Forcing livestock producers to adhere to an RFID program will unlawfully deny them access to interstate markets. USDA and APHIS are seeking to mandate compliance with mere guidance. Threatening such unlawful enforcement violates the Constitution and our clients' Constitutional rights. NCLA is committed to stopping federal agencies from circumventing the law." – Harriet Hageman, NCLA Senior Litigation Counsel

“This case is a perfect example of the Administrative State flexing its regulatory muscle unlawfully. USDA’s 2013 Final Rule specified the requirements for the official identification of livestock for interstate movement. Now USDA and APHIS want America’s ranchers to disrupt their operations and comply with a new mandate that has not gone through proper channels. USDA cannot replace regulation with contradictory guidance.” – **Mark Chenoweth, NCLA Executive Director and General Counsel**

See the full case summary [here](#).

ABOUT NCLA

NCLA is a nonprofit civil rights organization founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the administrative state. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unchecked power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights. For more information visit us online: [NCLAlegal.org](#).

Media Inquiries:

Please contact Judy Pino
202-869-5218
Judy.pino@ncla.legal