

Fighting for the U.S. Cattle Producer!



R-CALF United Stockgrowers of America
P.O. Box 30715
Billings, MT 59107
Fax: 406-252-3176
Phone: 406-252-2516
Website: www.r-calfusa.com
E-mail: r-calfusa@r-calfusa.com

November 17, 2008

Dr. John Wiemers, Senior Staff Officer
National Animal Identification Staff
USDA VS-APHIS
2100 Lake Storey Rd.
Galesburg, IL 61401
1400 Independence Ave., S.W.
Docket No. APHIS-2008-0077
Regulatory Analysis and Development
PPD
APHIS
Station 3A-03.8
4700 River Road, Unite 118
Riverdale, MD 20737-1238

Re: Comments on Docket No. APHIS-2008-0077: Interim Rule: Use of 840 Animal Identification Numbers for U.S.-born Animals Only

Dear Dr. Wiemers and USDA:

R-CALF USA (Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America) is a national, nonprofit organization dedicated to ensuring the continued profitability and viability of the U.S. cattle industry. R-CALF USA represents thousands of U.S. cattle producers on trade and marketing issues. Our members are located across 46 states and are primarily cow/calf operators, cattle backgrounders, and/or feedlot owners, and there are dozens of affiliate organizations and various main-street businesses that are associate members. R-CALF USA appreciates this opportunity to comment on Docket No. APHIS-2008-0077.

We appreciate that the agency has set aside a special tag system (840 system) for animals exclusively born in the United States, and that such 840 tags are not to be used for any imported animals. However, R-CALF USA must assert that such tags are not necessary if imported cattle were to be removed from the J-List and permanently marked with their country of origin. We strongly believe that each imported animal should be permanently branded with a brand denoting the animal's country of origin as a condition of entry into the United States. Thus, in the event

of a lost identification device, imported animals could still easily be identified because of a *permanent* mark of origin on their hides.

Of particular concern is the following language in the rule: "...as we progress toward full implementation of the NAIS..." R-CALF USA members have suspected all along that the U.S. Department of Agriculture (USDA) was working to turn the National Animal Identification System (NAIS) into a *mandatory* program rather than a voluntary one, and language such as this leads us to suspect that was the agency's goal all along. In a letter to the USDA Secretary and Congress dated November 10, 2008, and attached hereto as Exhibit 1, R-CALF USA requested that USDA immediately withdraw Veterinary Services (VS) Memorandum No. 575.19, dated Sept. 22, 2008 (attached hereto as Exhibit 2), which requires livestock producers who engage in interstate commerce and who participate in any of USDA's regulated disease programs to register their premises under the NAIS. R-CALF USA believes that memo to be unlawful because guidelines set forth by the Administrative Procedure Act to amend existing regulations were not followed.

In fact, the VS memo contradicts the July 2008 Economic Analysis accompanying the interim rule that is the subject of this rulemaking. In the Economic Analysis for the interim rule the agency states that its regulations allow:

for the use of certain numbering systems on official eartags besides the AIN, namely, the National Uniform Eartagging System, a premises-based number system, or any other numbering system approved by the Administrator for the identification of animals in commerce.

The VS memo described above, however, unilaterally, and without rulemaking, eliminates the optional numbering systems and unlawfully mandates only the premises-based number system.

Also of specific concern is the agency's attempt in this rule to tie NAIS with country-of-origin labeling (COOL), when the COOL law specifically prohibits the use of animal identification programs for the purposes of establishing an animal's country of origin. However, the agency continues its attempt to strong-arm producers into participating in a national registry of the personal property. If the agency were genuinely interested in making COOL more convenient for livestock producers, it would inform meatpackers that they can initiate an origin claim by visually inspecting each animal for foreign markings, and to instruct meatpackers to initiate a USA origin claim for all livestock that do not bear a foreign marking. NAIS is overkill for COOL implementation and USDA is being disingenuous by attempting to coerce hard-working U.S. livestock producers into believing that NAIS is the most convenient method for verifying origins of livestock pursuant to COOL.

For years, R-CALF USA has pointed out to USDA that existing animal disease programs can be improved and enhanced for the purposes of traceback in the event of a disease outbreak, and that producer records and records produced in the normal course of business for such

November 17, 2008

Page 3

programs contain adequate information to contact producers in the event of a disease outbreak. And, although USDA claims there will be no significant economic expense to producers, the agency has not adequately evaluated the cost of NAIS on the U.S. cattle industry.

R-CALF USA respectfully requests that USDA cease all actions regarding the promotion and implementation of the NAIS and, instead, allow local and state animal health authorities to determine how best to achieve traceback of animals that may become diseased after they exit their respective states.

Sincerely,

A handwritten signature in cursive script that reads "R. M. Thornsberry D.V.M." with a stylized flourish at the end.

R.M. Thornsberry, D.V.M.

President, R-CALF USA Board of Directors

Attachments: Exhibits 1, 2

cc: Select Members of Congress