

# WORC

*Western Organization of Resource Councils*

220 S. 27<sup>th</sup> Street, Suite B, Billings, MT 59101

(406) 252-9672 FAX (406) 252-1092 E-mail: [billings@worc.org](mailto:billings@worc.org) <http://www.worc.org>

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Docket No. APHIS-2007-0096  
Regulatory Analysis and Development PPD, APHIS  
Station 3A-03.8  
4700 River Road Unit 118  
Riverdale, MD 20737-1238

Re: Docket No. APHIS-2007-0096

The Western Organization of Resource Councils (WORC) urges USDA to withdraw its proposed rule to implement portions of the National Animal Identification System (NAIS), Docket No. APHIS-2007-0096.

WORC is a regional network of seven grassroots community organizations that include 10,000 members and 45 local chapters in Idaho, Montana, North Dakota, Oregon, South Dakota, Colorado and Wyoming. WORC members represent farmers and ranchers, consumers and other working people of our region, all of whom will be impacted by the National Animal Identification System (NAIS) as proposed by U.S. Department of Agriculture (USDA) and Animal, Plant and Health Inspection Service (APHIS).

The proposed rule mandates the NAIS Premises Identification Number (PIN) as the sole means of identifying properties for USDA animal health purposes. The proposed rule also mandates the use of the NAIS numbering system (i.e. the "840 numbering system") for ear tags using official animal identification numbers. Tags using other numbering systems would be required to be linked to a NAIS PIN.

The draft rule is seriously flawed for multiple reasons:

**This rule overrides existing animal trace-back and disease prevention programs and mandates NAIS for producers who choose good husbandry practices.**

This proposed rule does not substantiate the alleged benefits to animal health. USDA makes general claims about the benefits of identifying locations where animals are kept, but the agency does not address the ability of existing programs to meet this purpose, nor how the proposed rule would improve the capability to identify locations.

This rule creates disincentives for people to seek veterinary care for their animals and participate in existing disease control programs. The proposed rule lists four animal disease programs—tuberculosis, brucellosis, scrapie, and Johne’s—and will also impact others. These programs include provisions for veterinary care through vaccinations and testing. Animal owners who object to NAIS may avoid participating in these animal health programs, thereby increasing health risks to the public and farm operations.

NAIS does not address animal disease prevention. It is not sensitive to any specific disease transmission and instead only provides for tracking once a disease outbreak has been discovered. Furthermore, the program completely ignores the risks of foreign animal disease introduction.

The program develops a new, large, bureaucratic program that is unproven and replaces proven, less expensive health programs already functioning. One longstanding, effective program identifies cattle vaccinated for brucellosis and allows trace-back through a tattoo and tagging system. This system is overseen by USDA’s Animal and Plant Health Inspection Service (APHIS), and run by state animal health or livestock boards. In another system, state officials “back-tag” all animals going to slaughter, resulting in a record of the state in which the animal was tagged and identification number leading back to the seller. Similar programs also exist for sheep and goats through the scrapie program and in hogs for cholera. In addition, many states have hot iron brand programs that provide a permanent identification of the animal throughout its life. These proven programs would be eliminated if NAIS is implemented fully.

There is clear proof that NAIS intends to supersede these existing and effective programs. The result would actually add harm to animal health. In two consecutive memorandums, one in September 2008 and a second in December 2008, APHIS attempted to coerce producers into participation in NAIS by tying it directly to animal health program participation and encouraging State Veterinarians to assign NAIS premise numbers to producers who did not voluntarily register. As a result of opposition to these memos, USDA issued this proposed rule.

Under these proposed rules, any producer who participates in a federal animal health program would be required to have an official USDA animal identification tag. To get that tag, producers must register with the NAIS program. If they don’t, USDA will register for that producer.

This poses many concerns for producers. First, all documentation issued by USDA on NAIS thus far has said that this is a voluntary program. Under this proposed rule, NAIS is mandated for any producer who chooses to protect the health of his or her herd and the herds of his or her neighbors. Secondly, ranchers are concerned that this proposal discourages basic animal husbandry. Because of costs, government intrusion and fear of the unknown ramifications of NAIS, some producers will choose NOT to vaccinate their livestock and participate in animal health programs. This poses a risk for all livestock and actually undermines the safety of livestock in our country.

**The proposed rule ignores the costs and burdens.**

After over five years of this program the proposed rule states “We do not currently have all the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities.” It is premature to ask producers to participate in, or even comment on a program that does not specifically describe the monetary or labor costs of a program. Ranchers expect that USDA and APHIS would have already provided information about the actual cost of the program.

It is concerning that there has been no study done to determine the cost of implementing NAIS for either USDA or the individual state that will be required to carry the cost if NAIS becomes mandatory through animal health program participation.

Despite the lack of specific cost data, it is clear that the proposed rule would substantially increase costs for livestock owners and taxpayers. Costs include the development and maintenance of a massive database; purchase of 840-numbered tags by animal owners; changes by state agencies to make existing programs consistent with the rule; and increased federal government intrusion into the lives and daily activities of farmers and other animal owners.

There is no doubt that NAIS will be a burden to producers in time and money. Through the program, ranchers would be required to document any movement from premise to premise. For many ranchers, especially in the West, this would be a logistical nightmare. The documentation of animal movement from one pasture to another would result in paperwork that takes away from their job of ranching. For an example, one Western rancher might have private range, range recently purchased from another rancher, government grazing leases, rented school and public lands and rented private property—all requiring different premise numbers. In order to be sustainable, cattle on this ranch need to be moved regularly, sometimes weekly, depending on the rain and other weather conditions. This would require documentation to the NAIS data base each time the movement is made, requiring hours of paperwork. Furthermore, assuming that these ranchers have internet access or ways to expediently submit the information is a myth.

The cost of implementing NAIS will fall more heavily on small producers than large ones due to the allowance by USDA for large groups, especially confinement animals, to be identified as a group rather than by individually applied identification devices. This cost could be devastating to smaller, family farm and ranch operations.

**This proposed rule adds to the confusion already rampant in the NAIS program.**

This rule is the latest in a series of ambiguous and often contradictory documents that the USDA has issued on NAIS. This has created enormous confusion over the intent of the USDA and problems for both animal owners and state agencies.

**This is not a food safety issue.**

USDA states that NAIS is designed to identify and track individual livestock and poultry animals and has pitched it as a disease tracking program. However, they have designed a program that actually hijacks existing, well-functioning disease response and brand

inspection programs run by individual states and have put more burdens, through cost and liability on the shoulders of livestock producers and farmers.

According to the USDA's own documents, NAIS is not designed or intended to be a food safety program. NAIS does not address the most immediate needs in the wake of BSE, Brucellosis, Bovine Tuberculosis and other animal disease to protect the U.S. food supply and does nothing to inform consumers or ensure that food born illnesses are prevented. Consumer confidence will remain high if the US herd remains healthy—and current disease tracking programs are working.

According to the proposed rule, the official ear tags are removed at slaughter. Therefore, there is not further tracking of the animal beyond slaughter. This corresponds with the NAIS plans that dictate this program as an animal disease tracking system. Therefore, this program does NOTHING to prevent food born illness. This program does not make changes to the federal meat inspection systems in packing plants where food born illnesses originate and does not allow for tracking beyond the death of the animal at the slaughter plant.

NAIS diverts resources from these more critical needs of food safety. NAIS will not prevent food borne illnesses, such as e. coli or salmonella contamination, because the tracking ends at the time of slaughter. Food safety is better served by focusing on programs such as increased testing for bovine spongiform encephalopathy (BSE or Mad Cow), improved oversight of slaughterhouses and food processing facilities, and increased inspections of imported foods. Programs such as NAIS that burden small, sustainable farmers will hurt efforts to develop safer, decentralized local food systems.

Furthermore, unless carefully developed, animal identification information could be used to shift liability for food contamination incidents from the packers and processors back to farmers and ranchers. Many food borne illnesses are a result of problems during processing not during the raising of the animals. To this point there has been not safeguards written into any of the NAIS proposals that would protect producers from unwarranted liability.

**The proposed tagging system does not specifically account for tag malfunction.**

What are the ramifications when tags malfunction or are lost? In the West, the climate and range are rugged and conventional tags are often lost and RFD tags malfunction. The proposed rule does not indicate a course of action for these problems.

**Proprietary Information:**

NAIS would collect proprietary information that could be misused. After five years NAIS has still not made a final decision on how the information gathered from the program will be stored. There have been various proposals about how the federal government will hold the information in a single data base, allowing livestock owners to contract with a private data base company that complies with federal standards, and allowing each state to hold the information.

In any of these cases, collection of private ownership information creates potential privacy risks for the financial information of farmers and ranchers. NAIS would have information on the number of livestock owned and that matched with other documentation meat packers have could be used to discriminate against producers, fix prices, or even dictate production practices to livestock producers.

The manipulation of livestock prices in the livestock market and the increase control of the cattle and hog industry by large, corporate interests will be perpetuated by the implementation of NAIS. Currently three major packers slaughter over 80% of fed cattle. They already use methods like packer ownership and formula pricing to drive down prices to producers. With the added information of the number of livestock available on the ranch and the potential for data on those animals, these packers would have an even stronger stranglehold on producers.

President Obama has said he will "...fight to ensure family and independent farmers have fair access to markets, control over their production decisions, and transparency in prices, and change federal agriculture policy to strengthen producer protection from fraud, abuse and market manipulation; and make sure that farm programs are helping family farmers, as opposed to large vertically integrated corporate agribusiness..."

NAIS is an example of a program that does not fit into President Obama's platform for agriculture.

### **It is time for government waste to end**

On March 4, 2009, President Obama is quoted as saying "It's time for government waste to end. It's time to only invest in what works."

The National Animal Identification System (NAIS) is a prime example of investment that is not working and government waste that should end immediately. USDA has been working for over five years and spent over \$130 million to implement the NAIS program. After all this time and money wasted, the program is still incomplete and written in a way that is impossible to implement. Furthermore, the system as proposed has only been able to accomplish participate from 35% of the nations producers.

The best course for USDA to take is to abolish the program and live up to the promises made by President Obama to end government waste.

### **One size does not fit all**

The United States is a country of many unique landscapes and individual producers. Even within each rural community, there are a wide range of types of livestock grown and methods of animal husbandry. The needs of programs from dairy producers to ranchers to backyard poultry growers differ significantly, thus the need and method of trace-back. Moving to one uniform, standardized, technology-neutral system for the identification of livestock does not take into effect the individual nature of livestock producers' operation, marketing decisions and technological access and will prove to be inefficient for both producers and the government.

**This proposed rule is a significant step toward implementation of the entire NAIS.**

Thus, the agency should address the fundamental question of whether it should be implementing NAIS at all. In addition to the problems with the draft rule listed above, there are many additional objections to the entire NAIS program:

### **Summary**

After more than five years and over \$100 million, USDA still does not have a national animal identification system in place that is effective or can be properly implemented. This proposed rule asks producers to comment on one portion of a complicated program that is so intertwined that only commenting on the issues laid out in the proposed rule without addressing the bigger issues of NAIS is impossible.

The NAIS program over all is still not acceptable to the majority of livestock producers, which can be witnessed by USDA's reports showing that only 35% of producers nationwide are volunteering to participate. Therefore, coercing producers to participate through participation in animal health programs is underhanded, especially in light of unknown financial burdens to those producers.

NAIS as applied overrides existing animal health programs that are proven to work and replaces it with a program that is neither proven nor cost effective.

This rule does not address the vital issue of the proprietary nature of the information required through NAIS and Premise registration, adding to the problems of market concentration and manipulation by corporate agri-business.

While a standardized program for animal trace-back is a lofty goal, the ability to implement such a program in a country as diverse as the United States is foolhardy.

WORC urges USDA to ensure that all components of NAIS remain strictly voluntary and end any move to make NAIS a mandatory program by outlawing requiring any NAIS program to be part of any livestock marketing opportunities or youth livestock programs. Disconnect NAIS and premise registration from any existing state or private disease tracking or branding program and ensure that any state or federal program does not require NAIS or premise registration to participate in those programs.

Thank you for the opportunity to comment. WORC urges USDA to withdraw the proposed rule to implement portions of the National Animal Identification System, Docket No. APHIS-2007-0096.

Sincerely,

Mabel Dobbs

WORC Livestock Committee Chair

Weiser, ID