RE: Traceability for Livestock Moving Interstate [Docket No. APHIS–2009–0091]

The Center for Science in the Public Interest (“CSPI”)\(^1\) appreciates the opportunity to comment on the proposal to implement a national official identification and documentation system for livestock traceability. CSPI agrees on the need for the Animal and Plant Inspection Service (“APHIS”) at the U.S. Department of Agriculture (“USDA”) to develop an effective traceability system. In our 2005 report “Name That Cow,” we documented the danger to animal and human health from current inadequate animal identification programs. We also assessed the adverse economic impact of deficiencies in our ability to trace animals. We incorporated that report into our 2005 comment on the National Animal Identification System [Docket No. 05-0150-2 (May 20, 2005)] which urged USDA to move quickly to join other developed and developing nations by adopting a mandatory national system. CSPI continues to support a mandatory national animal identification program and offers the following comments regarding the rule proposed by APHIS.

Animal identification programs are important to protecting the livestock industry and consumers. The discovery of a single dairy cow with bovine spongiform encephalopathy (“BSE”) in 2003 resulted in a 17 percent decline in cattle exports and the industry lost an estimated $4.7 billion in the following year.\(^2\) The losses were due, in part, to an inability to reassure the international community that more U.S. cattle were not infected with BSE in light of the absence of an animal identification program. While economic costs argue for establishing a

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\(^1\) The Center for Science in the Public Interest is a nonprofit health advocacy and education organization focused on food safety, nutrition, and alcohol issues. CSPI is supported principally by the 900,000 subscribers to its Nutrition Action HealthLetter and by foundation grants. We accept no government or industry funding.

\(^2\) Geoffrey S. Becker, BSE (“Mad Cow Disease”): A Brief Overview, Congressional Research Service (Dec. 8, 2005).
program, its major value is as a tool to prevent the spread of diseases that impact animal and human health. It is not possible to do this in the absence of a properly functioning animal identification system. While the U.S. began work on an animal identification system in 2004, it has yet to implement an effective program.

The proposed rule is a well-intentioned effort to overcome objections to the voluntary National Animal Identification System (“NAIS”). Because APHIS implemented NAIS as a voluntary program, it never achieved its goal of 48-hour traceability for livestock and poultry. APHIS identifies NAIS as having become a barrier to achieving meaningful animal disease traceability, but it was the voluntary nature of the program which caused it to fail, principally because of non-participation. APHIS now proposes to establish national minimum standards for official identification and documentation requirements that States and Tribal governments would follow to implement animal identification programs. Once established, livestock moving in interstate, but not intrastate, commerce would have to be identified with a national uniform eartagging system number issued by the State or Tribal program.

APHIS also proposes that states may, by agreement, adopt alternative identification programs such as branding. CSPI strongly opposes this option of accepting “alternative identification programs” as the lack of uniformity in such a system has the potential to harm consumers. Such a system increases the risk of delays in a trace investigation, and affords the public and the industry unequal protection from economic and health harms.

1. Potential to Delay Rapid Tracing of Diseased Animals.

APHIS defines its goal for the system as taking an adaptable approach to quickly locate animals associated with a disease, focus on only those animals and minimize harm to producers. As proposed, the system will not be effective at locating all potentially infected animals rapidly. The use of multiple “alternative” systems will require trace investigators to be trained on a variety of identification methods. Additionally, a trace investigation could be significantly delayed due to confusion caused by the variety of identification systems in use in each State involved in the investigation.

The use of multiple systems is more likely to increase confusion and errors that would delay efforts to trace a diseased animal. Delay that allows a disease to spread can be devastating.
to the agricultural economy. For example, a 2001 outbreak of foot and mouth disease in sheep that was confined to a single region in Ireland cost that country €210 million. Had the disease spread to the national herd the estimated losses would have been €5.6 billion.\textsuperscript{4} For this reason, CSPI recommends requiring States to utilize a system of nationally uniform eartagging and allowing flexibility only in the design of their animal identification program.

2. Unequal Protection From Economic and Health Harms.

CSPI also believes it is critical for the effectiveness of the proposed system that it should apply to livestock moving in intrastate as well as interstate commerce. APHIS describes the ability to trace diseased and at-risk animals as indispensable to emergency response and ongoing disease control and eradication programs. Applying the animal identification requirements only to interstate commerce leaves an overwhelming gap in the program’s coverage that would prevent it from meeting its public and animal health objectives.

The fact that USDA’s regulatory authority only applies to interstate commerce has no bearing on its ability to mandate an animal identification program for livestock moving in intrastate commerce. It is well established that USDA can regulate intrastate commerce where that commerce would have a substantial effect on interstate trade.\textsuperscript{5} In the case of an animal identification program, it is reasonable to anticipate that animals moving only in intrastate commerce may have a substantial impact on national disease control efforts. The risk comes from the potential that disease will have time to spread if there is difficulty tracing infected livestock in a State that has failed to implement an effective animal identification program within its borders. Also, an incomplete trace at the State level may leave infected livestock to serve as a reservoir for re-infection. APHIS cannot eliminate these risks by requiring States to segregate interstate and intrastate herds. Infections can spread even though the sick animals are not in apparent contact with livestock destined for interstate commerce. Foot and mouth disease, as an example, does not require close contact between livestock. It may spread through aerosols or through contact with contaminated equipment, trucks, clothing, or feed. In the case of zoonotic diseases, people traveling through the State may be infected by contact with a diseased animal. CSPI recommends APHIS address these concerns by applying the animal identification standards to all livestock.

\textsuperscript{4} Rogan, \textit{supra}.
\textsuperscript{5} \textit{Wickard v. Filburn}, 317 U.S. 111, 125, (1942).
Failing to require animal identification tags for livestock moving in intrastate commerce also may result in different levels of economic and public health protection. The purpose of a national animal identification program is to provide a uniform system that can quickly identify infected livestock and target an appropriate response. APHIS should not limit that purpose just to livestock moving in interstate commerce. For producers, the ability to target only sick animals can prevent economic loss from the unnecessary destruction of healthy ones. The absence of an animal identification system forced the destruction of all 449 bull calves at a U.S. feedlot in 2003 because officials could not determine which calf was the offspring of a BSE-infected cow. A system that allows each State to establish (or fail to establish) its own animal identification program could result in producers operating in intrastate commerce facing similar costs due to difficulty tracing a sick animal. As a result, they could not count on the same level of protection afforded producers selling livestock under the Federal standards. A comprehensive animal identification system also has important public health ramifications. In the case of zoonotic diseases, different identification systems would mean consumers in a State that cannot quickly identify the animal source of a zoonosis would be at greater risk of contracting the disease relative to consumers in other States. The goal of a comprehensive national program should be to afford equal protection to all producers and consumers. CSPI believes this can best be done by applying a more uniform tracking system to livestock moving in both intrastate and interstate commerce.

CSPI supports efforts which would improve food safety and believes that an effective, mandatory national animal identification system is essential. Properly implemented, the system can improve disease traceability, enhance food safety, improve consumer confidence, and prevent disease outbreaks in animals and humans. CSPI commends APHIS for its efforts in this regard but urges adoption of the above recommendations to further improve its proposed system.

Respectfully submitted,

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Attachment

6 CSPI, Name That Cow, (March 2005).