

*Interim Rule: Use of 840 Animal Identification Numbers for U.S.-born Animals
Only*

*Analysis in Support of Certification that the Rule will not have a Significant
Economic Impact on a Substantial Number of Small Entities*

Docket No. APHIS-2008-0077

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*Policy Analysis & Development
Policy & Program Development
Animal & Plant Health Inspection Service
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APHIS is amending the regulations to limit the use of the animal identification number (AIN) with the 840 prefix to animals born in the United States. In addition, we are extending the restrictions on the removal of official identification devices to include devices applied to imported animals in their countries of origin. The regulations also are being amended to prohibit the re-tagging of imported animals with an official identification device beginning with the 840 prefix. The Regulatory Flexibility Act of 1980 (Public Law 96-354) requires agencies to evaluate the potential effects of proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. Section 605 of the RFA allows an agency to certify a rule if it will not have a significant economic impact on a substantial number of small entities. Following is the factual basis for such certification of this rule.

Reason for the Action and Objectives of the Interim Rule

Currently, the definition for “animal identification number” contained in 9 CFR 71.1, 77.2, 78.1, 79.1, and 80.1, specifies that an AIN contain 15 digits, with the first 3 being either the country code (840 for the United States), the alpha characters USA, or the numeric code assigned to the manufacturer of the identification device by the International Committee on Animal Recording. In these same regulations, the definition for “official eartag” allows 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.

Limiting the use of the 840 prefixed AIN to animals born in the United States will help APHIS determine the origin of an animal in a more timely fashion in the event of a disease outbreak. Animals born outside the United States will retain identification tags

from their countries of origin, and if such tags are lost following importation, they will have to be replaced with tags that do not use the 840 prefixed AIN. Requiring that foreign-born animals retain identification tags applied in their countries of origin will aid in the traceback of those animals.

In addition to enhancing our traceback capabilities, this rulemaking also provides a convenient way for U.S. producers and retailers to comply with the COOL program. Under provisions contained in the Farm Bill of 2002, covered commodities, including certain beef, lamb, chicken, goat, and pork cuts and products, will be subject to COOL requirements beginning September 30, 2008. In order for retailers to accurately label these products, producers will need to provide information on the origins of their livestock. Animal identification that meets NAIS standards can play a valuable role in the COOL program. Such identification may include both the AIN and the GIN, the latter employing a format that includes a seven-digit PIN. This rule will allow producers to use the 840 AIN for purposes of the COOL program.

We note that the NAIS is a voluntary program. There are no regulations that require participation in, or compliance with, the NAIS program.

Description and Estimate of Small Entities Affected by the Proposed Rule

Those entities most likely to be affected by the rule are domestic producers of animal eartags and livestock producers. The Small Business Administration (SBA) has established guidelines for determining which establishments are considered small.

The SBA small-entity size standard for North American Industry Classification System (NAICS) code 326199, which comprises plastic product manufacturers not

otherwise identified, is 500 or fewer employees.¹ According to the 2002 Economic Census, there were 7,892 establishments in this category engaged in the manufacturing of plastic products, with over 492,000 paid employees.² Of these 7,892 establishments, we do not currently have enough information to determine the number of operations engaged in the manufacture of plastic eartags, or the number having 500 or fewer employees. Limiting use of AINs beginning with the 840 prefix to U.S.-born animals should not affect the costs of tag producers. It should, however, enhance the marketability of these tags as they will become a means of meeting the requirements of the COOL regulations.

In 2006, there were a total of 971,400 cattle operations, 65,540 hog and pig operations, and 69,090 sheep and lamb operations in the United States.³ The overwhelming majority of these operations are considered small entities according to SBA standards.⁴ The interim rule is not expected to have significant economic effects on these livestock establishments.

Limiting use of 840 AINs to U.S.-born animals is expected to benefit the livestock sector generally, and producers in particular, by enhancing APHIS' animal disease response capabilities. The interim rule will also provide a readily available, convenient, effective, and cost-effective means of complying with the COOL regulation and meeting requirements for State/Federal animal disease programs and interstate commerce. Use of the 840 prefixed AIN will not be required, no animals will be required

¹ Table of Size Standards based on NAICS 2002. Washington, DC: U.S. Small Business Administration, effective October 1, 2007. Note: NAICS code 326199 comprises establishments primarily engaged in manufacturing plastics products (except film, sheet, bags, profile shapes, pipes, pipe fittings, laminates, foam products, bottles, plumbing fixtures, and resilient floor coverings).

² 2002 Economic Census-Manufacturing Series. Washington, DC: U.S. Census Bureau, December 2004.

³ USDA-NASS, 2007 Agricultural Statistics, Tables 7-18, 7-26, and 7-53. Washington, DC: National Agricultural Statistics Service.

⁴ The small entity definition for livestock producers (NAICS codes: 112111, 112120, 112210, 112410, and 112420) is one that has \$750,000 or less in annual receipts, according to the SBA's Table of Size Standards.

to be retagged due to this rule, and other animal identification numbering systems currently permitted for use on official eartags, such as the National Uniform Eartagging System and premises-based number systems, will continue to be recognized as official.

Duplication, Overlap, or Conflict with Other Rules

APHIS has not identified any Federal rules that are duplicative, overlapping, or conflicting with this rule.

Alternatives

APHIS has determined that there are no significant alternatives to this interim rule that would reduce any negative impacts associated with this change and still accomplish the stated objectives.

Conclusion

In sum, we expect that the interim rule will benefit affected entities by enhancing the traceability of livestock in the event of a disease outbreak. It will also provide a convenient way for U.S. producers to comply with the COOL program. The use of AINs beginning with the 840 prefix for U.S.-born animals will not be required, no animals will be required to be retagged due to this rule, and other animal identification numbering systems currently recognized in the regulations for use on official eartags, such as the National Uniform Eartagging System and premises-based number systems, can continue to be used.

Based on the information presented, if promulgated, this rule will not have a significant impact on a substantial number of small entities. We invite comment from members of the public who believe that the rule may have a significant impact on domestic producers of animal eartags or livestock producers.