



Farm-to-Consumer Legal Defense Fund®

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Legal Defense Fund Calls for Obama Administration to Permanently Stop USDA Animal Identification Rule

Rule Would Effectively Mandate Participation In the National Animal Identification System

Falls Church, Virginia, (Jan. 22, 2009) –The Farm-to-Consumer Legal Defense Fund called on the new administration to permanently halt a U.S. Department of Agriculture proposed rule that would effectively mandate the implementation of the first two stages of the National Animal Identification System (NAIS) for thousands of Americans.

The proposed rule, entitled the “Official Animal Identification Numbering Systems,” was published by the USDA’s Animal and Plant Health Inspection Service (APHIS) in the Federal Register January 13. On Tuesday, the Obama administration ordered federal agencies to halt all pending regulation until they can be reviewed.

“The APHIS regulation is further evidence of the department’s unrelenting effort to make a so called voluntary program mandatory, and it should be permanently stopped by the new administration,” said acting Fund president Pete Kennedy.

“This effort by the former Bush administration is yet another back-door attempt to circumvent the will of the U.S. Congress which has repeatedly failed to pass legislation making NAIS mandatory and the will of four separate state legislatures that have passed legislation explicitly prohibiting the mandatory implementation of NAIS,” said Kennedy.

The Fund filed suit last year against the USDA and the Michigan Department of Agriculture to stop the mandatory implementation of NAIS, which is the USDA’s plan to electronically track every livestock animal in the country. The Michigan Department of Agriculture has implemented the first two stages of NAIS – property registration and animal identification –as part of a state-wide bovine tuberculosis disease control program required by a grant from the USDA.

The proposed APHIS rule seeks to amend current domestic livestock regulations to allow only numbers beginning with an 840 prefix to be used to tag animals for use in official programs such as existing disease control efforts. Numbers beginning with 840 are specific to the NAIS program, and, in order to obtain an 840-numbered tag, animal owners will need to first register their premises with NAIS.

“This proposed rule is just the latest in a series of actions taken by the USDA to make NAIS mandatory over the objections of small farmers, ranchers and four state legislatures,” Kennedy noted. “Not only will the use of the 840 tags cost them money, but their private information and data will now be entered into a national database that will be accessible not only by state and federal agencies, but also by private organizations. Farmers don’t want that,” Kennedy said.

In September of last year, USDA issued a memo to its Veterinary Services Management Team ordering federal, state and private veterinarians to assign a premise identification number to any property whose owners participate in or are subject to a disease management program such as having their animal vaccinated. Those who refused were to be registered against their will.

“In the face of overwhelming opposition, USDA cancelled the September memo with a follow-up memo in December, but in doing so, reiterated its policy of using NAIS premise identification numbers for the administration of animal disease programs,” Kennedy said, “thus continuing its effort to make NAIS mandatory.”

Both the September and December memos were cited by the Fund in an amended complaint filed Jan. 16 to its original suit.

The suit, which was filed in the U.S. District Court – District of Columbia on September 8, 2008, asks the court to issue an injunction to stop the implementation of NAIS at both the state and the federal levels by any state or federal agency. If successful, the suit would halt the program nationwide.

The suit charges, in part, that USDA has published rules and issued guidance documents (that are tantamount to legislative rules) regarding NAIS in violation of the Federal Administrative Procedures Act; has never performed an Environmental Impact Statement or an Environmental Assessment as required by the National Environmental Policy Act; is in violation of the Regulatory Flexibility Act that requires the USDA to

analyze proposed rules for their impact on small entities and local governments; and violates religious freedoms guaranteed by the Religious Freedom Restoration Act.

About The Farm-to-Consumer Legal Defense Fund: The Fund defends the rights and broadens the freedoms of sustainable farmers, and protects consumer access to local, nutrient-dense foods. Concerned citizens can support the Fund by joining at www.farmentoconsumer.org or by contacting the Fund at 703-208-FARM (3276). The Fund's sister organization, the Farm-to-Consumer Foundation (www.farmentoconsumerfoundation.org), works to support farmers engaged in sustainable farm stewardship and promote consumer access to local, nutrient-dense food.

Editor's Note: A copy of the suit filed against the USDA and MDA, together with the amended complaint is available at www.ftcldf.org.

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