

The “National Animal Identification System”: A New Threat to Rural Freedom¹

by

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Small farmers and homesteaders have chosen their way of life because they love their freedom - - the freedom from urban noise and congestion, the independence from government and corporate interference, the self-reliance of providing one’s own shelter, water, food. Now the USDA’s NAIS – National Animal Identification System – threatens the traditional freedoms of the rural way of life.

The Genesis of the NAIS

The NAIS is the brainchild of the National Institute for Animal Agriculture (NIAA). Who is the NIAA? Primarily two groups – (1) the biggest corporate players in U.S. meat production (for example, the National Pork Producers, Monsanto, Cargill Meat); and (2) the makers and marketers of high-tech animal ID equipment (for example, Digital Angel, Inc., EZ-ID/AVID ID Systems, Micro Beef Technologies, Ltd.). Beginning in 2002, the NIAA used 9/11 and subsequently the BSE scares to lobby the USDA for a nationwide, all-livestock registration and tracking system. The result is the USDA’s proposed NAIS, set forth in a Draft Strategic Plan (Plan) and Draft Program Standards (Standards) released on April 25, 2005. The Plan and Standards can be downloaded from www.usda.gov/nais.

Main Requirements of the NAIS

The NAIS would require two types of mandatory registration. First, premises registration would require every person who owns even one horse, cow, pig, chicken, sheep, pigeon, or virtually any livestock animal, to register their home, including owner’s name, address, and telephone number, and keyed to Global Positioning System coordinates (for satellite-assisted location of homes and farms), in a federal database under a 7-digit “premises ID number.” (Standards, pp. 3-4, 10-12; Plan, p. 5.) Second, individual animal identification will require owners to obtain a 15-digit ID number, also to be kept in the federal database, for any animal that ever leaves the premises of its birth. Thus, even if you are raising animals only for your own food, you will have to obtain an individual ID to send animals to a slaughterhouse, to sell or buy animals, to obtain stud service. (Large-scale producers will be allowed to identify, e.g., large groups of pigs or broilers raised and processed together by a single group ID number. However, owners raising single animals or a small number, under most circumstances will have to identify each animal individually for purposes of slaughter, sale, or breeding.) If you own a non-food animal such as a horse, you would need individual ID if you ever left your property for shows or trail rides. The form of ID will most likely be a tag or microchip containing a Radio Frequency Identification Device, designed to be read from a distance. (Plan, p. 10; Standards, pp. 6, 12, 20, 27-28.) In addition to this “electronic identification,” the USDA will

¹ This information is not intended to provide legal advice. Legal advice can only be given by a lawyer licensed to practice in your state and familiar with your particular circumstances.

allow “industry” to decide whether to require the use of “retinal scan” and “DNA” identification for all animals. (Plan, p.13.)

Within this system, for animals subject to individual animal identification, the animal owner would be required to report: the birthdate of an animal, the application of every animal’s ID tag, every time an animal leaves or enters the property, every time an animal loses a tag, every time a tag is replaced, the slaughter or death of an animal, or if any animal is missing. Such events must be reported within 24 hours. (Standards, pp. 12-13, 17-21.) The USDA plans “enforcement” to ensure compliance with the NAIS. (Standards, p. 7; Plan, p. 17.) The USDA has not yet specified the nature of this “enforcement,” but presumably it would include fines and/or seizure of animals.

A more recent development is a movement, spearheaded by the National Cattlemen’s Beef Association, to “privatize” the database which will contain all the premises and animal identification information and tracking information. As reported in Lancaster Farming, Aug. 6, 2005, p. E 22, the NCBA has lobbied the House Agriculture Committee to urge the USDA to put the NAIS database administration into the control of the NCBA itself. As explained below, such “privatization” will only worsen the prospects for invasion of privacy and economic pressures on small farmers and homesteaders.

Any “Benefits” of the NAIS Are Illusory

The NIAA and USDA claim two principal benefits of the NAIS: first, enhancing export markets for U.S. livestock products; and second, allowing traceback to farms of animals’ origin when animal diseases (such as BSE) are found. These “benefits” are of no use to most small farmers and homesteaders. Small farmers and homesteaders sell to their neighbors or consume their animal products themselves – they don’t profit from “export markets.” Small farmers and homesteaders raise their animals in natural and healthy conditions -- usually on pasture, with minimal home-raised or organic grain, with plenty of space for exercise and dispersal of waste -- to assure that problems like BSE and bacterial contamination won’t occur in the home-raised animals destined for their own tables.

Indeed, the NAIS “traceback” system would be much less effective against BSE than a system of testing every slaughtered cow. Europe and Japan perform testing of every cow. The USDA has refused such testing; but surely the testing would be less expensive than a huge tracking system covering every cow, horse, donkey, llama, alpaca, pig, sheep, goat, pigeon, chicken, duck, farmed fish, etc. etc.

Moreover, the NAIS system would be of no use at all in dealing with the most common types of meat contamination in the U.S., the occurrence of pathogens such as listeria or E. coli in processed meat. One example of such contamination can be found at www.fsis.usda.gov/Fsis_recalls, 2005 recalls nos. 033-2005 and 040-2005. Those incidents involved over **one million pounds** (enough to serve at least 4 million people) of ground beef contaminated with coliform bacteria, distributed nationwide by a single processor. Such instances of contamination are not discovered until the meat has been distributed into the supply chain. Assuming that a cow yields 500 pounds of ground meat, the one million pounds in the foregoing recalls represent meat from over 2000 cows. There is no way to identify individual cows from one million pounds of hamburger; no way to tell if any contamination came from a cow, multiple cows, or from the processing itself; and no benefit to consumer safety in

such a situation from the NAIS system. In sum, when meat becomes contaminated at a large packing plant, millions of consumers in all 50 states can be exposed to the dangerous product. In contrast, an incident of impaired food at a small-scale farm or local processor might affect only a few dozen consumers in a single county. Thus, by encouraging increased consolidation of the meat industry, the NAIS would actually make America's food supply more unstable and less safe.

It is therefore clear that the benefits of the NAIS are illusory. Unfortunately, the harms of the NAIS are very real, and fall primarily upon the smallest farmers, homesteaders, and consumers.

The Harms of the NAIS Are Very Real

The NAIS will drive small producers out of the market, will prevent people from raising animals for their own food, will invade Americans' personal privacy, and will violate the religious freedom of Americans whose beliefs make it impossible for them to comply.

The NAIS will create an unfair economic burden on small farmers and homesteaders, because animal owners will bear the costs of property and animal registration. As the USDA frankly admits, "there will be costs to producers" (Plan, p. 11); "private funding will be required . . . Producers will identify their animals and provide necessary records to the databases. . . . All groups will need to provide labor." (Plan, p. 14.) In sum, there is no realistic chance of government funding to cover the costs of the program once it is established, and animal owners will have to pay the tab for premises registration fees, individual animal ID fees, reporting fees for events such as animals leaving a given premises or being slaughtered, and for equipment such as RFID tags, tag readers, or software needed to report to the database. The proposed privatization of the NAIS would only worsen the economic burden, since a private database holder would certainly want to make some profit from the system.

The NAIS would also, in fact, lessen rather than improve the security of America's animal foods. The NAIS is touted by the USDA and agricorporations as a way to make our food supply "secure" against diseases or terrorism. However, most people instinctively understand that real food security comes from raising food yourself or buying from a local farmer you actually know. The USDA plan will only stifle local sources of production through over-regulation and additional costs. Ultimately, if the NAIS goes into effect, more consumers will have to buy food produced by the large-scale industrial methods which multiply the effects of any food safety and disease problems. Moreover, the NAIS system will create opportunities for havoc, such as the deliberate introduction of diseased animals into premises containing large numbers of a given species.

Perhaps the most troubling aspect of the NAIS is its proponents' lack of concern for individual privacy and religious freedom. Consider that the NAIS plan is a compulsory registration with the government of all people who want to raise their own animal foods. Concededly, the Bill of Rights does not contain a constitutional amendment specifically to protect one's right to produce one's own food. But that is only because the generation of the Founders could never have imagined that American government could evolve into a system that would compel citizens to in effect ask for government permission to produce their own food.

Further, consider that livestock animals are legally a form of personal property. It is unprecedented for the United States government to conduct large-scale computer-aided surveillance of

its citizens simply because they own a common type of property. (The only exceptions are registration of motor vehicles and guns, due to their clear inherent dangers – but they are registered at the state level, not by the federal government. Moreover, those registration systems predate the widespread use of personal computers and the development of the Internet, so even the car and gun registration systems were never intended as the widespread threat to privacy and freedom that they have become today.) Surveillance of small-scale livestock owners is like the government subjecting people to surveillance for owning a couch, a tv, a lawnmower, or any item of personal property. Moreover, privatization of the NAIS will surely result in the same gross abuses already evident in private databases of financial information – the sale of citizens’ most personal data, without their knowledge, to the highest bidder; and the vulnerability of citizens’ information to hackers and thieves, because the President and Congress have utterly failed to subject the powerful private data industry to long-needed protections for citizens’ privacy.

The NAIS also violates America’s tradition of respect for the religious freedom of members of minority faith communities. Many adherents of plain (and other) faiths raise their own food animals and use animals in farming and transportation because their beliefs require them to live this way. Such people obviously cannot comply with the USDA’s computerized, technology-dependent system; and many of them also believe that scriptural teachings or other religious tenets prohibit the marking of animals or homes with high-tech numbering systems. The NAIS will force these people to violate their religious beliefs, by compelling them to make an impossible choice between abandoning the livestock ownership necessary to their religious way of life, or accepting the government’s imposition of practices abhorrent to their faith.

The USDA’s Planned NAIS Timetable

The following is the USDA’s timetable, as set forth in the Draft Strategic Plan and Draft Program Standards on April 25, 2005, for implementing the mandatory NAIS. Essentially, the USDA timetable would make premises identification and individual animal identification mandatory as of January 1, 2008. Please note that there can be no assurance that the USDA will not advance (or delay) the previously announced timetable. In addition, the USDA timetable may differ from that of individual states, which have had the incentive of grant money from the USDA to establish pilot projects of premises and animal identification. (For example, Wisconsin is attempting to compel premises and animal identification by late 2005 or during 2006.)

April 2005 – the USDA issued its Draft Strategic Plan and Draft Program Standards for public comment. The public comment period for those documents ended in early July 2005.

July 2006 – the Draft Strategic Plan (p. 10) gives July 2006 as the target date for the USDA to issue a proposed rule setting forth the requirements for NAIS premises registration, animal identification, and animal tracking. This will be a crucial juncture for action by those who will be harmed by the NAIS, because there will be a limited public comment period after the publication of the rule, and objections expressed in the public comments may persuade the USDA to modify or abandon some requirements of the rule.

Fall 2007 – the USDA plans to publish a “final rule” to establish the requirements of the mandatory NAIS. (Plan, p. 10.)

January 2008 – this is the most crucial date in the USDA’s present timetable, the date when premises identification and animal identification would become mandatory. (Plan, pp. 2, 10.)

January 2009 – “animal tracking” would become mandatory, including “enforcement” of the reporting of animal movements. (Plan, p. 17.)

How to Oppose the NAIS

There is still time to oppose mandatory premises and animal identification. Small-scale keepers of livestock can take action to create an effective movement in opposition to the USDA/agricorporate plan. First, small-scale livestock owners should **not** participate in any so-called “voluntary” state or federal program to register farms or animals. The USDA is using farmers’ supposed willingness to enter a “voluntary” program as a justification for making the program mandatory. (See Plan, “Executive Summary” and pp. 7-8.) If a state or extension official urges registration of your premises or livestock, question them about whether the registration is mandatory or voluntary and about any deadline for registration; and ask them for a copy of the legislation or rule establishing any claimed authority to require such registration.

Small farmers and livestock owners can also help inform and organize others. The USDA presently does not plan to finalize its rules to establish mandatory ID until the summer of 2006. (As stated above, individual states, such as Wisconsin, may be planning earlier implementation, but even in such states, widespread objection by animal owners can still affect whether plans become permanent and whether reasonable exceptions may be established.) Animal owners should contact breed associations, organic and sustainable farming organizations, or general farming interest groups and ask them to oppose the NAIS. Also ask such organizations to start or support campaigns of letter-writing to officials and of commenting on the USDA rules scheduled to be issued in summer 2006 (and any similar state rules).

NAIS opponents can also individually write their federal and state legislators. You can find contact information for both federal and state officials through www.vote-smart.org or through the federal government’s site, www.firstgov.gov. Remember, the conventional wisdom is that individual letters sent by postal mail carry more weight than e-mails or signing on to form letters. But any input is more useful than no input, so if you don’t have time for an individual letter, use e-mail, telephone, group petitions, or any means you can. Also remember that both individual initiative and group initiatives count, so even after you have sent a letter, continue, if you can, to respond to calls for action asking you to send additional messages to government officials.

In particular, the USDA’s planned issuance of a NAIS rule for public comment in July 2006 will be a crucial juncture. Be aware of press coverage or action alerts at that time, and when you hear that the public comment period on a NAIS rule is open, please take the time to submit an individual comment.

Finally, if the time comes when the NAIS (or a state equivalent) is about to go into effect as presently planned, and you feel your rights are being violated, you can contact groups that may provide legal representation without cost. Some sources of information to try are: (1) Farmers’ Legal Action

Group, www.flaginc.org, 651-223-5400; (2) the American Civil Liberties Union, www.aclu.org; for the ACLU in your state, see the pull-down menu on the bottom of that page, under “your local ACLU”; and (3) www.abanet.org/legalservices/findlegalhelp/home.cfm, the American Bar Association’s guide to legal services.