



Farm-to-Consumer Legal Defense Fund[®]

May 15, 2008

Excerpts from the Notice of Intent to Sue Letter to the United States Department of Agriculture (USDA) and the Michigan Department of Agriculture (MDA)

- NAIS was developed by the United States Department of Agriculture (“USDA”), and is being implemented through its Animal and Plant Health Inspection Service (“APHIS”) and various state agencies, including the Michigan Department of Agriculture (“MDA”).
- Ironically, the USDA has claimed that NAIS is necessary to control disease in animals due to the ongoing success of existing animal disease control programs: “As diseases such as tuberculosis, brucellosis, and pseudorabies are eradicated from the United States, fewer animals are required to be officially identified under the regulations. As a result, our ability to trace diseased animals back to their herds of origin and to trace other potentially exposed animals forward is being compromised.” (See 69 Federal Register 64,644)
- In promulgating its interim rule to facilitate the development of NAIS, it concluded that “this interim rule has potential implications for small entities in the United States, both in terms of any costs they might incur to satisfy NAIS program requirements and in terms of the benefits associated with the program’s establishment,” and that “little information is available at this time about costs that may be incurred by producers.” Notwithstanding this admission that NAIS would have cost impacts, USDA refused to evaluate any such impacts based on the assumption that “participation in the NAIS is voluntary.”
- USDA is using the State of Michigan to implement NAIS in that State under the guise of eradicating TB, a disease which is not being caused by animals on farms, but rather, is being caused by wildlife in the State as well as by imported animals.
- Even though implementation of NAIS is not required by any federal or state statute or regulation, the USDA held hostage Michigan’s attempt to have its areas declared TB free unless MDA agreed to implement NAIS on a mandatory basis for all cattle.

- Another way in which NAIS will impact the environment is how it will drive small operations (which benefit the environment) out of business yet reward large operations (which burden the environment) by allowing them to proliferate. Specifically, NAIS creates incentives for confined animal feeding operations (CAFO's) but not for pasture-based farms. Therefore, compliance with NAIS will be easier for large operations but difficult for small operations.
- Large swine and poultry CAFO operation will benefit from NAIS at the expense of small farmers since the USDA allows group identification numbers can be used for animals that “typically move through the production chain as a group of animals of the same species” Small, pasture-based operations, which generally do not manage their animals in such artificial, isolated groups, will therefore be faced with having to individually tag and track each animal, a cost that USDA again failed to evaluate.
- In addition to the lack of scientific support, USDA has based NAIS on entirely unsupported assumptions about its feasibility and workability. Microchips are subject to multiple problems that make their effectiveness in a tracking system highly questionable. Microchips can be cloned or infected with computer viruses. The specific type of microchip designated by USDA for NAIS is reprogrammable making it useless against purposeful wrongdoing.
- Experience in Australia with a similar program for cattle has proven that the databases are subject to extremely high error rates making them essentially useless in cases of true emergencies.

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