



# Farm-to-Consumer Legal Defense Fund®

**FOR IMMEDIATE RELEASE**

## **Legal Defense Fund to Answer USDA, Michigan Department of Agriculture Motions to Dismiss NAIS Suit**

### ***Motions Falsely Claim NAIS is a Voluntary Program***

**Falls Church, Virginia, (Dec. 15, 2008)** – Motions filed by the U.S. and Michigan Departments of Agriculture seeking to dismiss the Farm-to-Consumer Legal Defense Fund suit to stop the implementation of the National Animal Identification System (NAIS), incorrectly claim that NAIS is a voluntary program.

“Even as the agencies try to deny the clear facts of what they have done in Michigan, the USDA recently issued a memo that confirms what the Fund has stated in its lawsuit: NAIS is not voluntary,” said Pete Kennedy, interim president of the Fund.

Kennedy cited Veterinary Services Memorandum No. 575.19 addressed to USDA's "Veterinary Services Management Team" that requires NAIS premises registration for various disease program activities.

“The memo includes activities such as vaccinations, testing, and applying official ear tags for programs for every livestock species, ranging from brucellosis to scrapies to equine infectious anemia,” Kennedy noted. “One of the most important aspects of this memo is that people who refuse to have their farms registered will be registered against their will. Thus, USDA has officially abandoned the supposed ‘voluntary’ nature of NAIS.”

NAIS 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 – for all those who own cattle across the state as part of a state-wide bovine tuberculosis disease control program required by a grant from the USDA.

The suit, which was filed in the U.S. District Court – District of Columbia on September 8 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 that USDA has never published 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.

“Other mandatory implementations, which weave NAIS into existing regulatory programs, have occurred in the States of Wisconsin and Indiana where premises registration has been made mandatory; in drought-stricken North Carolina and Tennessee, where farmers have been required to register their premises in order to obtain hay relief; and in Colorado where state fairs are requiring participants to register their premises under NAIS,” explained Judith McGeary, a member of the Farm-to-Consumer Fund board and the executive director of the Farm and Ranch Freedom Alliance.

The Fund expects to file its response to the agencies’ motions to dismiss in January.

***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.farmtoconsumer.org](http://www.farmtoconsumer.org) or by contacting the Fund at 703-208-FARM (3276). The Fund’s sister organization, the Farm-to-Consumer Foundation ([www.farmtoconsumerfoundation.org](http://www.farmtoconsumerfoundation.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 is available at [www.farmtoconsumer.org](http://www.farmtoconsumer.org)

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