

About the National Animal Identification System (NAIS)
Part 24: Premises Registration – Is it really “voluntary”?

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The April 2007 edition of the “NAIS Community Outreach Partner Bulletin”, published monthly by USDA/APHIS for “State NAIS Administrators”, mentioned for the first time that the USDA now offers a procedure that farmers could use to be removed (a.k.a. “opting out”) from the NAIS. Here is a direct quote taken today from USDA’s web page (emphasis added):

*Q. Can I discontinue participation in NAIS after I register my premises?
A. NAIS continues to be a voluntary program at the Federal level, and has established a procedure for premises registration removal. Because individual States and Tribes are responsible for registering premises, requests for such a removal must be submitted through your State animal health official or State NAIS administrator, who will decide whether to authorize the request.*

The foregoing admission that “... [the] State animal health official or State NAIS administrator ... will decide whether to authorize the request.” is but one more indication that the act of volunteering for a Federal Premises Identification Number provides a grant of authority from the premises owner to the state / tribe (the “Authority”). Before registration, the premises owner has undisputed say-so over the premises to the extent local property laws allow. Upon registration, however, the owner is now subject to the state’s / tribe’s say-so authority. Because governments’ appetite to gain ever-more authority is well known, what might happen if a farmer refuses to yield to the state’s / tribe’s premises registration campaign, refuses to grant this additional authority to the state / tribe? Recent developments in Wisconsin shall provide us with a partial answer. In anticipation of what was expected to be a federally-mandated NAIS, Wisconsin’s lawmakers took the early lead in 2003 by mandating state-wide registration of livestock premises by Nov. 1, 2005. The original act provides that (emphasis added) ...

[Wisconsin Statutes, Section] 95.51 Livestock premises registration.

(2) REGISTRATION.

(a) ... no person may do any of the following at a location in this state unless that person registers that location with the department:

- 1. Keep any bovine animals, equine animals, goats, sheep, swine, poultry, or farm-raised deer.*
- 2. Keep any other kind of livestock that the department identifies by rule.*

(3) COORDINATION.

A person to whom sub. (2) applies may comply with sub. (2) as part of the registration process under s. 95.55 [Farm-raised deer licensing] or 95.68 [Livestock market licensing] or the licensing process under s. 97.22 [Milk producer licensing].

(4) PREMISES CODE.

(a) The department shall assign a unique identification code to each location registered under sub. (2) (a). ... The department shall use a system that complies with any applicable standards established by the animal and plant health inspection service of the federal department of agriculture. The department shall use premises codes that are federally allocated for premises in this state.

(6) FUNDING. The department shall seek federal funding for the administration of this section.

(7) RULES. The department may promulgate rules for the administration of this section.

Source: 2003 Wisconsin Act 229

Under this sweeping law, the mere act of “keeping” (not necessarily owning) any livestock at any location in the state is deemed unlawful UNLESS that location has been registered with Wisconsin’s Ag department. This act also mandates that the state’s system comply with USDA standards, use federally-allocated (read: NAIS-managed) premises numbers, provide several options to comply with registration requirements, and furthermore authorizes Federal funding and state-level rules for its administration.

Empowered with such a broadly phrased law, Wisconsin’s Ag department has since instituted an aggressive premises registration campaign. According to the USDA’s latest statistics tallying the states /

tribes premises registrations, as of May 2007, Wisconsin stays in the lead by having achieved 111% participation. How was this accomplished? Instead of simply assigning premises codes according to its original premises registration act, the Ag department not only instituted a mandatory, annual application-type registration process, but made the issuance of new farming licenses and the annual renewal of existing farming licenses contingent on the premises having been registered. By effectively issuing an ultimatum to its farmers (no premises number = no license = no livelihood) the department has reached far beyond the clear intent of its original premises registration act.

The foregoing facts came to light recently when several of Wisconsin's milk producers were put on verbal notice by their dairy processors that "the milk would not be picked up come May 1st" unless they have registered their premises before that date, the very date milk producer licenses expire. Since this was done without giving proper notice to the affected milk producers, this just shows that the state will not hesitate to exert collateral pressure on the distribution system (such as by ordering milk haulers and dairy plants not to pick up milk) in order to coerce unregistered, though properly licensed, farmers / producers into registering their premises.

Largely due to local grass-roots support for those affected milk producers, and the negative publicity generated by this collateral attack, the state's Ag Department has suspended enforcement action for the moment. In light of the tenuous situation, even the original act's sponsor, Wisconsin State Rep. Barbara Gronemus, admitted that ...

"I am really disappointed. Never did I think this would eliminate the farmer's ability to make a living. We have people with a legitimate product that has already been inspected. Why shouldn't they be able to sell that product just because of this language on the books?"

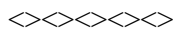
(Source: Vernon County Broadcaster, May 3, 2007)

Gronemus also was reported as saying that she introduced the bill on the request of agriculture committee chairman Al Ott, and that the administrative rules that have come out of the bill are not what she had intended:

"They had made attempts to get it done and couldn't get people to join and then asked me to see if I could get it through. I could just kick myself for putting my name to it now ... What purpose does this number serve? We already have milk inspectors [who] know where every farm is now. Can't we use some other number? I wish it were required that every bill have a statement at the top saying what the author's intent was. I have fought with Madison lawyers for years on that and they refuse to allow that. That way when it is made into an administrative rule they know what the intent of the bill was."

(Source: Vernon County Broadcaster, May 3, 2007)

Although the above situation and discussion only applies to Wisconsin, it should sound an alarm with farmers and livestock owners everywhere. It clearly demonstrates the ill effects a broadly written law can have when it is being "administered" without any constraints imposed upon the government's rule-making authority. Considering the fact that the registration of premises in the NAIS is a federally-funded and aggressively promoted program whereby the states / tribes perform a paid contractor's job, it remains to be seen if other states / tribes will follow Wisconsin's lead.



Bruno & Charlene Schmidt are co-authors of the self-published "Farmer's Field Guide to the NAIS". Since December 2003, they have spent in excess of 2000 hours researching the National Animal Identification System including applicable laws, regulations and rules. For more information and latest updates, please visit

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