

## National Animal Identification System (NAIS): Part V: The power of “Cooperative Agreements”

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Could our State Assembly enact a law and then impose it on the people of Oregon, Idaho, or Montana? Of course not. The general rule is that laws enacted in THIS state operate in THIS state only and nowhere else. Expressed in a different way, the scope of THIS state’s laws ends where another state’s laws take over, at the state border. This universal principle, “legislative authority”, is clearly specified in every state’s Constitution.

When it comes to the Federal government, this limitation is specifically laid out in the *Constitution for the United States of America*, in Article I, Section 8, and I quote:

*“The Congress shall have the power ... 17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may ... become the seat of the government of the United States, ...”*

Take note of the phrase “... exclusive legislation ... over such district (not exceeding ten miles square) ...”. This “district”, better known as “Washington D.C.”, is the seat of the Federal government. Congress alone is empowered to make all laws that operate in Washington, D.C., in Federal territories and possessions, military bases, ports of entry, etc., collectively referred to as the “Federal Zone”. In addition, Congress has other “enumerated powers” (a total of 18) to regulate commerce between the states, to coin money, to deliver the mail, etc. What does all that have to do with the NAIS, you might ask?

As I have previously shown in this series of articles, the USDA’s “National Animal Identification System” (NAIS) is part of a much larger design, the “National Animal Health Surveillance System”(NAHSS). Per the USDA’s own documents, the NAHSS stands for a vast, emerging infrastructure of networked computers and databases that reaches from coast to coast and border to border. Once it goes into operation, it will bypass and thus nullify all jurisdictional boundaries and become the foundation for an all-seeing, all-listening and all-knowing Federal government.

All-seeing, all-listening and all-knowing? According to the USDA plan, virtually all “producers” of livestock animals including many owners of non-food animals, nearly one billion acres of farm land and hundreds of millions of animals, along with their entire support and marketing structure (a.k.a. “non-producer participants” such as feed stores, veterinarians & labs, feed lots, fair grounds, haulers, auction yards, etc.) will be under constant, “voluntary” surveillance by 2009.

For a moment, ask yourself: how would America’s founding fathers, and mothers, regard this form of an all-seeing, all-listening and all-knowing government? Isn’t this what they fought against, and suffered and died for by taking a stand? The result of their sacrifices was the creation of a Federal government that was vested with a set of limited, enumerated powers only. Does this mean that so-called “identification” programs such as the NAIS, programs that are likely to affect every farm and animal within the states, and subsequent “surveillance” programs such as the NAHSS, are unconstitutional?

If we recall from the above quote that Congress has “... exclusive legislation ... in all cases whatsoever ...”, and that the NAIS and NAHSS are USDA-sponsored and –funded programs, they are quite constitutional AS LONG AS PARTICIPATION IN THESE FEDERAL PROGRAMS IS NOT MADE MANDATORY WITHIN THE STATES. How is it, then, that the long arm of these Federal programs is able to reach into our state, and seeks to bring under its control – and ultimately, surveillance – every farm, ranch, food and non-food animal? This feat is being

accomplished by way of your so-called “voluntary participation”, the very objective of the aggressive promotion efforts by your local, state and tribal authorities!

Why go to all this trouble with “voluntary participation”, though? Would it not be easier for our State Assembly just to enact a law that makes participation in the NAIS mandatory? Because such a law would compel you to participate in a FEDERAL program that is beyond the State Assembly’s power to regulate, such a law could be challenged. On the other hand, would it not be easier for Congress to mandate participation in the NAIS? Congress could do that, but this law could only operate in the Federal Zone, or in regards to commercial activity between the states (a.k.a. “Interstate commerce”), but not within our state where Congress does not have the power to mandate your participation in a Federal program.

How do the Federal government, States and Tribes overcome the above jurisdictional limitations and avoid potential challenges? Originally written to prevent government from trespassing on the people’s right to contract, the Constitution states in Article I, Section 10, Clause 1, that ...

*“No state shall ... pass any ... law impairing the obligation of contracts, ...”*

It is this constitutional provision that allows the Federal government to implement Federal programs by using so-called “*Cooperative Agreements*” (basically, a certain type of contract) in lieu of legislation. Commencing in the late-1950s, the Federal government began to contract with other jurisdictions to implement Federal programs where Congress does not have legislative authority. How does this work? To begin with, a state, tribe, or local authority applies for a Federal grant. Upon approval of the applicant’s “proposal”, Federal funds are being paid to the “cooperator” who commits to carrying out, implementing or administering a particular Federal program. These funds come with numerous strings attached, must be used for “authorized” tasks and activities only, and the “cooperator” must file progress and status reports. Summarily, this boils down to a BUSINESS ARRANGEMENT where the Federal government controls the “cooperator”.

This arrangement works so well that all kinds of Federal programs have been implemented accordingly: School lunches; public libraries; animal-disease control & eradication; premises & food inspection; emergency management & training; law enforcement & training; etc. This is not intended to question the merits of some of these programs, it merely serves to demonstrate the method by which the Federal government and its agencies gain local control. At the same time Federal funds represent the proverbial “carrot”, there’s also the threatened “stick” of withholding such funds. For example, when under the Reagan administration a nationwide speed limit of 55 mph was proclaimed, any state who refused to promptly go along was threatened with immediate loss of Federal highway funds. This actually happened to the State of Nevada, and its Governor wasted no time in lowering the state’s to the Federal speed limit.

It should not surprise you that the current promotion and implementation of the NAIS is a text book example of a “*Cooperative Agreement*”. As of May 2005, all 50 states and several tribes have “signed on”. While they accept Federal funds with one hand (a fact they don’t publicize much), their other hand “motivates” you to “voluntarily” bring your farm, or ranch, along with your land and livestock, into the NAIS and thus under Federal control. In doing so, the NAIS “cooperator” also gains complete access to YOUR farm’s and animals’ information stored in the NAIS, is free to charge fees for premises identification and/or “administrative support”, and may link your NAIS information to other things such as licenses, tax rolls, auctions, law enforcement, emergency response, etc.

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*Bruno Schmidt is co-author of the self-published “Farmer’s Field Guide to the NAIS”. He has spent in excess of 1000 hours over the past three years researching the National Animal Identification System. For more information, please visit [www.FarmersFieldGuide.com](http://www.FarmersFieldGuide.com)*