

*Fighting for the U.S. Cattle Producer!*



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*USA*

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## **USDA Roundtable Discussion on NAIS**

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R-CALF USA appreciates that the Animal Health Protection Act grants USDA authority to restrict imports to prevent the introduction and spread of foreign animal diseases and pests and to carry out measures to detect, control, or eradicate pests or diseases within the United States. However, we disagree that Congress granted USDA authority to mandate 1) the registration of every producers' "premises," 2) the identification of each animal owned by every producer, and 3) the reporting of each movement of each animal owned by every livestock owner as a precondition to engaging in the economic business of raising and selling livestock in the United States, particularly when there is no eminent threat, or expectation of an eminent threat, of a pest or disease event that would otherwise invoke USDA's existing authority over a specific population of livestock and a specific population of livestock owners.

R-CALF USA supports USDA's exercise of its statutory authority to detect, control, and eradicate known disease threats such as brucellosis and bovine tuberculosis, which are examples of diseases known to exist in the United States. However, what USDA proposes under NAIS far exceeds the authority USDA has previously exercised to effectively address these and other disease threats.

USDA has not provided any analysis to support its assertion it must now expand its jurisdiction and exert more expansive authority over every livestock producer in the United States in order to carry out its mission under the Animal Health Protection Act. If the agency did conduct an internal analysis, it was not subject to any critical review by the public as required under the agency's rulemaking responsibilities. In fact, the analysis conducted and communicated by USDA in its business plan expressly states the opposite. It states that its preexisting systems resulted in the cattle industry having "a high level of traceability." USDA stated that the level of identification achieved under preexisting systems "not only supported the needs of specific disease programs, but provided traceability for foreign animal diseases investigations and other disease control efforts." The livestock industry deserves to know why the previous "level of identification" and the "high level of traceability" it achieved while USDA exercised far less authority over the livestock industry is now insufficient to enable the agency to continue carrying out its mission under the Animal Health Protection Act.

In its 2006 Business Plan, USDA claims to have implemented NAIS in 2004, but the public was never afforded an opportunity for hearing or comment before this substitute of highly successful preexisting programs was instituted. In 2008, USDA mandated NAIS participation for producers who participated in a federal disease program activity and who engaged in interstate commerce. Though USDA purports to have cancelled the directive making NAIS participation mandatory, its subsequent cancellation notice appears to accomplish the same objective.

R-CALF USA considers this new NAIS program to be an invasive and unlawful encumbrance on commerce. The effect of the NAIS is to impose additional production costs on every livestock producer, whether or not they are affected by a disease event, without affording livestock producers

any means of recovering those additional production costs from the marketplace. Due to the non-recoverable costs imposed by the program and the chronic economic losses suffered by cattle producers, NAIS will function as a barrier to entry into the U.S. cattle industry, will accelerate the already rapid exodus of livestock producers from the U.S. cattle industry, and will further disadvantage U.S. cattle producers in the global market by exacerbating the comparative advantage other cattle producing nations already enjoy due to their reduced costs of production. In addition, R-CALF USA is concerned that NAIS would subject U.S. cattle producers to enforcement and compliance costs associated with the third-party management of a colossal database within which culpability would be difficult to determine – yet producers would remain subject to a command-control relationship with the third-party administrator, i.e., the federal government.

The U.S. cattle industry has long recognized the value of animal disease control and eradication programs to protect the U.S. livestock industry. However, what is envisioned under NAIS is a distortion of components that comprise an effective disease control program. The NAIS is a radical departure from the highly successful, preexisting disease programs and represents an unwarranted expansion of government agency power that R-CALF USA believes is prohibited under our Constitution.

USDA has distorted what would otherwise be common sense components of a system to restore our once high-level of traceability achieved under preexisting systems. These three principal components of the NAIS include:

**1. Premises Registration:** USDA is wrong to assert that premises registration is the foundational component of a system to enhance disease traceability. The high level of traceability achieved under preexisting systems was not predicated on a producers' registration of their property under a national registration scheme. Instead, a location identification number was assigned administratively at the state level subsequent to the local veterinarian's submission of the livestock owners' physical address and phone number, along with the name of the nearest town where the livestock were located when they were identified. This system enabled the state veterinarian and USDA to associate a group of individual livestock, whose individual identification numbers were entered into the state's database, to their owner, the local veterinarian who identified the livestock, and the state that had jurisdiction over the owner, the veterinarian, and the livestock. This superior system enabled animal health officials in other jurisdictions to immediately contact the disease response team associated with a suspect animal, i.e., the state veterinarian with jurisdiction over the owner of the livestock and the local veterinarian who identified the livestock, who, in turn, could immediately contact the owner of the livestock who would possess the records and information *essential* to initiate disease control activities. Under this preexisting system, the livestock carried the information that allowed instantaneous identification of the disease response team and the subsequent identification of the owner – the postal code eartag. This is the most effective system for tracing a suspect animal back to its herd of origin on any one of the hundreds of thousands of cow/calf operations across the United States and at no point did any of the livestock owners have to register their property in a federal database as is now contemplated under the NAIS.

USDA has provided no analysis that contradicts the effectiveness of the preexisting systems that did not require producers to register their property in a federal database, nor has it provided any basis for asserting that such registration would function better than preexisting systems. It is nonsensical for USDA to focus on “premises” as the foundational component of an enhanced traceability system when a “premises” can provide no useful information in a disease investigation to the herd of origin. Upon the detection of a disease suspect, USDA is not going to travel by air or land directly to the

geographic coordinates contained in its NAIS database as its initial response to a disease outbreak. In western states, this could land them in a deserted pasture, miles from human inhabitants. Instead, USDA would first contact the person(s) responsible for the livestock (state veterinarian, local veterinarian, and owner) so a review of the records held by these individuals could be made. The physical property on which the livestock were held, therefore, is, at best, of secondary importance for a traceback investigation to the herd of origin.

For disease traceback investigations to the herd of origin, the NAIS is fundamentally flawed because it improperly elevates “premises” registration above what is actually needed to conduct such an investigation, which is access to the information and records held by the owner of the livestock and by the area disease response team with jurisdiction over the owner and livestock. For tracebacks to a herd of origin, the foundational component for an investigation is not a registered “premises,” it is, instead, the records and information held by the herd owner and the local veterinarians with responsibility to or jurisdiction over the herd.

USDA’s assertion that every cow/calf producer must register their property in a federal database and acquire a federal premises identification number in order for USDA to carry out its mission under the Animal Health Protection Act is baseless, unsupported by USDA’s past practices, and constitutes excessive government infringement over the rights and privileges of U.S. cattle producers.

**2. Animal Identification:** USDA is wrong to assert that its new “840” numbering system is needed to enhance domestic animal disease traceability. The numbering system central to NAIS – the international “840” numbering system – is not a numbering system designed to assist animal disease investigations in domestic commerce. Instead, its purpose is to differentiate livestock in international commerce. The NAIS substitutes a superior disease-control numbering system used in preexisting disease control programs that uses a postal code to subdivide the U.S. livestock population according to the jurisdictional boundaries of each of the 50 states with an international numbering system that provides no differentiation based on domestic subpopulations. Thus, the new numbering system is not equipped, nor was it designed to enable animal health officials to immediately determine the state-of-interest arising from the identification of a disease suspect. As a result, the NAIS would complicate and jeopardize domestic disease investigations. For this reason, the incorporation of the 840 international numbering system renders the NAIS an inferior animal identification system for use in domestic disease investigations when compared to preexisting systems specifically designed to facilitate rapid disease tracebacks in the domestic livestock herd.

A numbering system affixed to a disease suspect that provides animal health officials with no other visual information except the country from which the animal originated is inferior for domestic disease traceback purposes to a numbering system that provides animal health officials with immediate, visual information as to the specific state from which the animal originated. Clearly, having immediate access to information identifying the state-of-origin of a disease suspect would expedite disease investigations if for no other reason than it allows, at the outset, the immediate elimination of 49 states from a traceback investigation.

Because the international “840” numbering system fails to provide any visual information with which to narrow a disease investigation within the entire United States, animal health officials would be entirely dependant on having access to a NAIS database in order to even initiate an investigation. In the event of a data entry error or inability to access the database for any reason, a disease investigation would be brought to a standstill. In contrast, the preexisting postal code numbering system that also contains a code denoting the veterinarian who applied the identification device

would enable the immediate narrowing of a disease investigation even if a data entry error was made or if the NAIS database is inaccessible. Thus, the preexisting numbering system automatically provides back-up capabilities that are non-existent in the NAIS “840” numbering system.

USDA’s assertion that every livestock producer must identify each animal with an international “840” number in order for USDA to carry out its mission under the Animal Health Protection Act is baseless, counterintuitive, and constitutes an inappropriate exercise of agency authority.

**3. Animal Traceability:** USDA is wrong to assert that all livestock owners must report to government officials all livestock movements from one “premises” to another (preferably within 24 hours) in order to facilitate animal disease traceback investigations in the United States. This assertion is over-the-top and ignores two important realities: First, only the movement of a disease suspect and the possible movement of animals it may have exposed are relevant to a disease traceback investigation and there are other, more efficient means of ascertaining the movement of a small number of livestock within a universe of 100 million cattle, for example. Second, the administrative costs and burden of reporting, recording, and managing each daily transaction involving the movement of 100 million or more livestock imposed on both industry participants and taxpayers would be excessive.

For the foregoing reasons, R-CALF USA believes the NAIS fundamentally violates and distorts the essential components of a sound and effective disease control program for U.S. livestock owners and the U.S. livestock industry. R-CALF USA urges USDA to scrap its NAIS plan and, instead, begin immediately to build upon the highly successful, preexisting disease control programs. Below is R-CALF USA’s eight-point recommendation that would alleviate the current challenges USDA has identified regarding its current disease control capabilities:

1. Prevent the importation of serious cattle diseases and pests from foreign sources by:
  - a. Prohibiting the importation of livestock from any country that experiences outbreaks of serious zoonotic diseases, including pests, until scientific evidence demonstrates the diseases and/or pests have been eradicated or fully controlled and there is no known risk of further spread. This recommendation includes a request for an immediate ban on live cattle imports from Canada, which harbor a heightened risk for BSE.
  - b. Requiring all imported livestock to be permanently and conspicuously branded with a mark of origin so identification can be made if a zoonotic disease or serious pest outbreak occurs in the exporting country subsequent to importation.
  - c. Requiring all livestock imported into the United States to meet health and safety standards *identical* to those established for the United States, including adherence to U.S. prohibitions against certain feed ingredients, pesticide use on feedstuffs, and certain livestock pharmaceuticals.
  - d. Requiring TB testing of all imported Mexican cattle and further requiring that all Mexican cattle remain quarantined in designated feedlots until slaughtered.
  - e. Reversing USDA’s efforts to carve out regions within disease-affected foreign countries in order to facilitate imports from the affected country before the disease of concern is fully controlled or eradicated.
  - f. Increasing the testing of all imported meat and bone meal to prohibit contaminated feed from entering the United States.
2. Adopt the surveillance and identification components of the preexisting brucellosis program, including the metal eartag and tattoo that identifies the state-of-origin and the local veterinarian

who applied the identification devices, and require breeding stock not otherwise identified through breed registries to be identified at the first point of ownership transfer.

3. State and Tribal animal health officials should be solely responsible for maintaining a statewide database for all metal tags applied within their respective jurisdictions and should continue to use the mailing address and/or the production unit identifier determined appropriate by the attending veterinarian to achieve traceback to the herd of origin should a disease event occur. Under no circumstances should the Federal government maintain a national registry of U.S. livestock or require the national registration of producers' real property.
4. The Federal government should enter into coordination agreements with State and Tribal animal health officials to pay for the States' and Tribal governments' costs of identifying breeding stock and maintaining the State and Tribal databases, as well as bolstering disease surveillance at livestock collection points such as livestock auction yards and slaughtering plants, including increased surveillance for BSE.
5. The Federal government should coordinate with the States and Tribes to establish electronic interface standards and to establish improved communication protocols so it can more effectively coordinate with the States and Tribes in the event of a disease outbreak.
6. The Federal government should coordinate with the States and Tribes to establish improved protocols for the retention and searchability of State and Tribal health certificates, brand inspection documents and other documents used to facilitate interstate movement of livestock.
7. Establish specific disease programs and focus increased resources toward the eradication of diseased wildlife in States where wildlife populations are known to harbor communicable diseases.
8. To address the challenge of increased incidences of tainted meat products, Congress and USDA must substantially reform the current hands-off inspection system known as Hazard Analysis and Critical Control Point (HACCP). HACCP has fundamentally failed to ensure adequate sanitary practices at major slaughterhouse establishments. As part of the HACCP reform, Congress should implement a requirement that meat sold at retail and at food service establishments be traceable back to the slaughterhouse that produced the meat from live animals, not just back to the processor that may have further processed tainted meat. This simple improvement would enable investigators to determine and address the actual source of meat contamination – primarily the unsanitary conditions that allow enteric-origin pathogens, such as *E. coli* O157:H7, to contaminate otherwise healthful meat.

Submitted by:

A handwritten signature in blue ink, appearing to read "Bill Bullard", with a stylized flourish at the end.

Bill Bullard, CEO