



Confidentiality a concern in national animal ID system

by Carolyn Orr

The latest case of bovine spongiform encephalopathy in a 12-year-old cow from Texas has led to more talk about the importance of a national livestock-tracking system.

Amid that talk, plenty of action is occurring as well, with state and federal officials working to implement a mandatory National Animal Identification System (NAIS) by January 2009. It will allow officials to identify all livestock and premises that have had contact with an animal disease within 48 hours of an initial presumptive-positive diagnosis.

“This system is important not only in the case of a [agriculture-related] terrorist attack, but also to maintain consumer confidence in food safety,” says Bill Hawks, undersecretary for marketing and regulatory programs at the U.S. Department of Agriculture.

The significance and possible implications of NAIS were also a focus of discussion among legislators who attended The Council of State Governments’ Agriculture and Rural Task Force meeting in June.

“A national animal-identification program — and the role it plays in food safety and export sales — is one of the most important issues facing U.S. animal agriculture and could have significant effects on the industry,” says South Dakota House Majority Leader Larry Rhoden, a Republican from Union City and participant in the recent CSG meeting.

Confidentiality concerns

As the federal government moves forward with NAIS, questions about producers’ confidentiality under the new system are being addressed by Rhoden and other state lawmakers.

“It is one of the most important concerns in the industry as we move forward in the process,” says North Dakota Rep. Gene Nicholas, a Republican from Cando.

The reason for concern is that the information collected by government entities for animal identification and tracking systems is not believed to be exempt from the Freedom of Information Act.

U.S. Democratic Rep. Collin Peterson of Minnesota has introduced legislation to prevent the unauthorized release of information and exempt it from disclosure under the act. As of late July, the bill had not passed out of the House Agriculture Committee.

A look at animal ID

This is the second in a two-part series examining plans to implement a mandatory National Animal Identification System. The first part, which appeared in the June edition of *Stateline Midwest*, focused on funding concerns as well as issues related to animal and premise identification.

In the meantime, state policymakers have been considering and enacting proposals of their own.

“The impact of the release of information on a producer’s business, in the event of a preliminary diagnosis of a disease that later is found to be false, could be disastrous,” Nicholas says. “The last few reports of suspected BSE only heightened producers’ concerns.”

He adds that livestock farmers “want assurances about who will have access to the data, how the data will be used and their level of liability.”

For example, because of NAIS, will producers be forced to share liability for food-safety problems now limited to the meat industry? Questions like this continue to linger as implementation of NAIS continues.

Meanwhile, some states have pursued legislation to ensure the privacy of producers’ information and to clarify which agencies have access to the data collected for animal and premise records systems.

Nicholas and other North Dakota lawmakers tried to address some of the producers’ confidentiality concerns in legislation passed earlier this year. The bill exempts from the state’s open-records requirements “any information created, collected or maintained by the state veterinarian or North Dakota Stockmen’s Association regarding premises or animal identification.”

“Most people have pretty well accepted the fact that this [animal-identification] program would eventually be mandatory, so we sought input from livestock producers at the very beginning,” Nicholas says. “Cow-calf producers are the primary livestock industry in North Dakota, and they were concerned about media access.

“That is why we included language in the bill making improper release of information a criminal offense.”

South Dakota and Kansas are among the other states that have passed confidentiality requirements. Intentional public disclosure of the

confidential records in these states is generally classified as a misdemeanor.

Lawmakers in Nebraska have included confidentiality language as part of legislation introduced this year to carry out the state components of NAIS. If the bill is approved, Sen. Phil Erdman of Bayard says, information provided for the identification system would not be subject to the state’s Public Records Act.

He also notes that the state Department of Agriculture would be prohibited from releasing the information, “except as necessary in the case of a disease.”

“Maintaining confidentiality will earn the trust of participating producers and encourage their involvement [in the program],” Erdman believes.

These efforts to protect confidentiality have not placated all concerns among producers.

And perhaps nowhere is the idea of mandatory governmental tracking more controversial than in the Dakotas. Generations of families there have raised cattle on open rangeland, and many producers believe the tradition of branding should be sufficient to meet federal requirements.


In fact, the South Dakota Stockgrowers Association has resolutions in effect that oppose a mandatory national identification system for cattle, limit the liability of producers and support an exemption from the Freedom of Information Act for any information collected in the process.

But South Dakota Sen. Jim Lintz says stockgrowers in his state ultimately may be able to use NAIS to their advantage.

For example, by gathering and supplying information for the national tracking system, producers will be positioning themselves to participate in the South Dakota Certified Beef Program. Approved by the Legislature this year, this marketing initiative aims to create an upscale, niche market for beef produced in South Dakota by creating a state-certified program with its own trademark.

To participate, though, producers must keep careful records so that the state can determine whether they are following the marketing program’s standards.

“It will be much easier to guarantee the elevated standards required to participate if the animals are enrolled in NAIS,” says Lintz, a Republican from Hermosa.

He adds that “if producers are interested in country-of-origin labeling and source-verified programs, then a national animal-identification program makes it all easier.” 

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Midwestern lawmakers have recently tried to address some of the confidentiality concerns that livestock producers have regarding the mandatory National Animal Identification System.