



United States
Department of
Agriculture

Natural Resources
Conservation
Service

P.O. Box 2890
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NATIONAL BULLETIN NO.

120-2-12

June 6, 2002

SUBJECT: ADS – NEW REQUIREMENTS FOR PRIVACY

Purpose. To inform employees of new privacy of personal information provisions that relate to the Natural Resources Conservation Service (NRCS) programs contained in the 2002 Farm Bill.

Expiration Date. September 30, 2003

Background. Section 2004 of the Farm Security and Rural Investment Act of 2002 (Farm Bill) mandated changes to the NRCS Freedom of Information Act (FOIA) policy. A copy of Section 2004 is attached for your information. We are working with the Office of the General Counsel and will soon update the FOIA policy contained in the General Manual. The changes became effective when the President signed the bill on May 13, 2002. Listed below is a summary of the policy change. You should process new FOIA requests using this interim guidance.

Effective immediately, information provided by individuals to NRCS to participate in conservation programs is not considered to be public information and is not releasable to the public by any employee. Information, including the location of National Resources Inventory data collection points, may be disclosed only if it has been converted into a statistical or aggregate form that does not allow the identification of the individual supplier.

Exception: In certain limited circumstances non-public information obtained from individuals may be disclosed or released only to the extent necessary to enforce natural resources conservation programs or to assist in providing technical or financial assistance for any natural resources conservation program administered by NRCS or the Farm Service Agency.

Violation: Any employee having access to NRCS records that contain individually identifiable information who discloses, publicly releases, publishes, or causes to be published to any person may be fined up to \$10,000 or imprisoned for up to one year.

Contact. If you have any questions concerning this bulletin, contact the Director, Management Services Division, at (301) 504-2163.

/s/

P. DWIGHT HOLMAN
Deputy Chief for Management

Attachment

SEC. 2004. ADMINISTRATIVE REQUIREMENTS FOR CONSERVATION PROGRAMS.

(a) IN GENERAL.—Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended by adding at the end the following:

“SEC. 1244. ADMINISTRATIVE REQUIREMENTS FOR CONSERVATION PROGRAMS.

“(a) BEGINNING FARMERS AND RANCHERS AND INDIAN TRIBES.— In carrying out any conservation program administered by the Secretary, the Secretary may provide to beginning farmers and ranchers and Indian tribes (as those terms are defined in section 1238) and limited resource agricultural producers incentives to participate in the conservation program to—

“(1) foster new farming and ranching opportunities; and

“(2) enhance environmental stewardship over the long term.

“(b) PRIVACY OF PERSONAL INFORMATION RELATING TO NATURAL RESOURCES CONSERVATION PROGRAMS.—

“(1) INFORMATION RECEIVED FOR TECHNICAL AND FINANCIAL ASSISTANCE.—

“(A) IN GENERAL.—In accordance with section 552(b)(3) of title 5, United States Code, except as provided in subparagraph (C) and paragraph (2), information described in subparagraph (B)—

“(i) shall not be considered to be public information; and

“(ii) shall not be released to any person or Federal, State, local agency or Indian tribe (as defined by the Secretary) outside the Department of Agriculture.

“(B) INFORMATION.—The information referred to in subparagraph (A) is information—

“(i) provided to the Secretary or a contractor of the Secretary (including information provided under subtitle D) for the purpose of providing technical or financial assistance to an owner, operator, or producer with respect to any natural resources conservation program administered by the Natural Resources Conservation Service or the Farm Service Agency; and

“(ii) that is proprietary (within the meaning of section 552(b)(4) of title 5, United States Code) to the agricultural operation or land that is a part of an agricultural operation of the owner, operator, or producer.

“(C) EXCEPTION.—Nothing in this section affects the availability of payment information (including payment amounts and the names and addresses of recipients of payments) under section 552 of title 5, United States Code.

“(2) EXCEPTIONS.—

“(A) RELEASE AND DISCLOSURE FOR ENFORCEMENT.— The Secretary may release or disclose to the Attorney General information covered by paragraph (1) to the extent necessary to enforce the natural resources conservation programs referred to in paragraph (1)(B)(i).

“(B) DISCLOSURE TO COOPERATING PERSONS AND AGENCIES.

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“(i) IN GENERAL.—The Secretary may release or disclose information covered by paragraph (1) to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in providing technical and financial assistance described in paragraph (1)(B)(i) or collecting information from data gathering sites.

“(ii) USE OF INFORMATION.—The person or Federal, State, local, or tribal agency that receives information described in clause (i) may release the information only for the purpose of assisting the Secretary—

“(I) in providing the requested technical or financial assistance; or

“(II) in collecting information from data gathering sites.

“(C) STATISTICAL AND AGGREGATE INFORMATION.—Information covered by paragraph (1) may be disclosed to the public if the information has been transformed into a statistical or aggregate form without naming any—

“(i) individual owner, operator, or producer; or

“(ii) specific data gathering site.

“(D) CONSENT OF OWNER, OPERATOR, OR PRODUCER.—

“(i) IN GENERAL.—An owner, operator, or producer may consent to the disclosure of information described in paragraph (1).

“(ii) CONDITION OF OTHER PROGRAMS.—The participation of the owner, operator, or producer in, and the receipt of any benefit by the owner, operator, or producer under, this title or any other program administered by the Secretary may not be conditioned on the owner, operator, or producer providing consent under this paragraph.

“(3) VIOLATIONS; PENALTIES.—Section 1770(c) shall apply with respect to the release of information collected in any manner or for any purpose prohibited by this subsection.

“(4) DATA COLLECTION, DISCLOSURE, AND REVIEW.—Nothing in this subsection—

“(A) affects any procedure for data collection or disclosure through the National Resources Inventory; or

“(B) limits the authority of Congress or the General Accounting Office to review information collected or disclosed under this subsection.”.

(b) NATIONAL RESOURCES INVENTORY.—Section 1770 of the Food Security Act of 1985 (7 U.S.C. 2276) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “or” at the end;

(B) in paragraph (2), by striking the period and inserting

“; or”; and

(C) by adding at the end the following:

“(3) in the case of information collected under the authority described in subsection (d)(12), disclose the information to any person or any Federal, State, local, or tribal agency outside the Department of Agriculture, unless the information has been converted into a statistical or aggregate form that does not allow the identification of the person that supplied particular information.”; and

(2) in subsection (d)—

(A) in paragraph (9), by striking “or” at the end;

(B) in paragraph (11), by striking the period and inserting “; or”; and

(C) by adding at the end the following:

“(12) section 302 of the Rural Development Act of 1972 (7 U.S.C. 1010a) regarding the authority to collect data for the National Resources Inventory.”.