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October 22, 2003

MINNESOTA BULLETIN NO. 120-4-4

SUBJECT: ADS – FREEDOM OF INFORMATION ACT / PRIVACY ACT

Purpose. Provide updated Freedom of Information Act (FOIA) and Privacy Act (PA) guidelines for NRCS.

Expiration date. September 30, 2003

Action Required by January 1, 2004

Section 1244 of the Farm Bill includes specific language pertaining to the release of technical and financial information. Technical and financial information includes all information given by cooperators to USDA 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 NRCS or FSA. It also includes information that is proprietary to the agricultural operation or land that is part of an agricultural operation of the owner, operator, or producer. This type of information is not releasable to the general public. This information does not include payment information, such as, payment amounts and the names of payment recipients, which is releasable to the general public for approved contracts. This guidance is for NRCS programs only. **All CRP FOIA requests or related questions are to be directed to FSA.**

The following information is NOT releasable to the public:

- NRCS technical and financial information (as defined above)
- Specific contact information (i.e. phone numbers and addresses)
- TSP program obligations and fund amounts (not releasable to anyone unless cleared by Chief Knight)

The following are examples of information that may be contained in the case file that are NOT releasable:

Examples of Case File Contents (not all inclusive)	Release
Assistance Notes	No
Problems Identified on the Owner's, Operator's, or Producer's Unit	No
The Owner's, Operator's, or Producer's Objectives	No
Cultural Resources – Kind or Location	No
Resource Inventories Specific to the Owner's, Operator's, or Producer's Unit	No
Benchmark Data (Current Conditions) on the Owner's, Operator's, or Producer's Unit	No
Worksheets Specific to the Unit	No
Land Use Maps Specific to the Unit	No
Information on how the Owner, Operator, or Producer Manages Resources	No
Environmental Evaluation on the Unit	No
Environmental Assessment on the Unit	No
Record of the Owner's, Operator's, or Producer's Decisions	No
Program Contract/Agreement Information	No
Specific Alternatives Developed for the Owner, Operator, or Producer	No
Specific Alternatives Evaluated for the Owner, Operator, or Producer	No
Practices and Systems Installed	No
Acres in the Owner's, Operator's, or Producer's Unit	No
Livestock Numbers on the Owner's, Operator's, or Producer's Unit	No
Economic Data Specific to the Owner's, Operator's, or Producer's Operation	No
Crop Budgets, etc. Developed for the Owner, Operator, or Producer	No
Social Concerns of the Owner, Operator, or Producer	No
Land Relationships for the Owner's, Operator's, or Producer's Operation	No
Permits Obtained by the Owner, Operator, or Producer	No
Conservation Plan(s) for Owner's, Operator's, or Producer's Operation	No
Conservation Compliance Determinations (HEL/Wetlands)	No
Engineering Survey's, Designs, etc for Owner's, Operator's, or Producer's Operation	No

The following is releasable information:

Technical and financial information can be released to a person or Federal, State, local, or Tribal agency working in cooperation with USDA-NRCS to provide technical and financial assistance, or in collecting information from data gathering sites. This applies only to NRCS programs. **(All FOIA requests related to CRP are to be directed to FSA.)** SWCD's that wish to provide vendor services to participants in CRP, such as selling grass seed or tree seedlings, must submit a FOIA request.

Landowners can sign a release waiver allowing TSPs to have access to their case file for specific purposes only (as expressed in the waiver), such as gaining information about applying a practice, acquiring design plans, survey data, etc. A release waiver is being produced. Once completed, copies will be distributed to all offices.

Approved landowners names, practice(s), and amount(s) (acres and dollars) for NRCS conservation programs can be released under FOIA. All requests are to be made in writing, however, they do not have to cite the FOIA and they do not have to disclose why they are requesting the information. Requests should be addressed to the State Conservationist or the FOIA Officer and sent to the state office the day the request is received. We have 20 working days in which to respond.

NRCS employees, consultants, or contractors of NRCS should not provide any information that reflects on the owner's, operator's, or producer's personal, commercial or financial matters; causes substantial harm to the competitive position of the owner; or impairs the Government's ability to obtain necessary information in the future. Requests for personal information contained in files are exempt from release under exemption (b) (6) of the FOIA and the PA.

The information in this bulletin **must** be reviewed with each SWCD at a regularly scheduled board meeting and documented in their meeting minutes. District Conservationists will notify their ASTC(FO) of the completion of this action by January 1, 2004.

For additional information on FOIA refer to:

- The NRCS General Manual, Subpart C, Sections 408.40-408.45 (http://policy.nrcs.usda.gov/scripts/lpsiis.dll/GM/GM_120_408_c.htm)
- Department of Agriculture, (7CFR Part 1), USDA Freedom of Information Act Regulations (<http://www.usda.gov/news/foia/usdaregs.pdf>)
- Section 1244 of the Farm Bill (http://www.usda.gov/farmbill/conference_report/full_report.pdf)

Questions regarding this bulletin or FOIA can be referred to Tessa Garcia, (651) 602-7872 (Tessa.garcia@mn.usda.gov) or Pat McLoughlin, (651) 602-7907 (Patrick.mcloughlin@mn.usda.gov)

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State Conservationist

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