UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

Notice CP-632

For: State and County Offices

Authorizing Disclosure of Information to Boll Weevil Foundations

Approved by: Acting Deputy Administrator, Farm Programs

1 Overview

A Background

The National Office has received several inquiries concerning the disclosure of acreage reporting data and common land unit (CLU) to the boll weevil foundations and State organizations as a result of Section 1619, Information Gathering, of the Food, Conservation, and Energy Act of 2008 (2008 Act).

B Purpose

This notice:

- provides State and County Offices:
  - authorization to disclose the following to the boll weevil foundations and State organizations, that agree not to release the data to nonauthorized persons, for the purpose of the Boll Weevil Eradication Program (BWEP):
    - acreage reporting data listed in subparagraph 2 A, for cotton only
    - CLU attributed with farm and tract numbers that has been identified as having cotton planted on it, according to acreage reporting data
  - instructions that BWEP data identified in this notice shall **not** be shared until FSA, Animal and Plant Health Inspection Service, State boll weevil foundation, and any other applicable State organization (Parties) properly execute a Memorandum of Understanding (MOU), as provided in paragraph 3, to ensure program integrity, performance, and compliance with Section 1619 of the 2008 Act and other applicable laws and policies
- obsoletes Notice CP-631.

Disposal Date	Distribution
August 1, 2009	State Offices; State Offices relay to County Offices

2 Authorized Disclosure

A Cotton Acreage Reporting Data

State and County Offices are authorized to continue to provide the following cotton acreage reporting data to the foundations or States for the purposes of BWEP:

- county
- crop year
- operator's name and address
- owner's name and address
- telephone number
- Social Security number/employer identification number
- farm number
- tract number
- field number
- crop code
- cotton acreage
- producer share
- crop status code
- planting period
- practice
- planting pattern
- planting conversion factor
- aerial photographs.

Important: This acreage reporting data shall be provided to the foundations or States for **cotton only**. State and County Offices are **not** authorized to provide the foundations or States with acreage reporting data for any other crop.

B CLU Data

Previously, shape files of public version CLU that included only line work and calculated acres were provided to the foundations or States upon request. While the 2008 Act removes public version CLU from the public domain, it does allow CLU attributed with farm and tract numbers that has been identified as having cotton planted on it, according to acreage reporting data, to be provided to the foundations or States.

Important: Not all foundations or States use CLU. CLU shape files should not be provided unless requested. If requested, State and County Offices are **not** authorized to provide foundations or States with CLU data on lands other than those with cotton.

2 Authorized Disclosure (Continued)

C State and County Office Action

State and County Offices shall refer to Notice:

- AS-2143 when sending data authorized in this notice to the applicable Parties using any **non-electronic** method

- IRM-372 when sending data authorized in this notice to the applicable Parties using any **electronic** method.

3 BWEP MOU

A SED Action

SED's shall:

- use the MOU template provided in Exhibit 1 for the purpose of sharing BWEP data identified in this notice with the applicable Parties

- consult with FSA's Chief Privacy Officer, Karen Malkin, by telephone at 202-690-2203, or e-mail to **karen.malkin@wdc.usda.gov**, if any Party desires substantive changes to the MOU template

- FAX a fully executed copy of the MOU to FSA's Chief Privacy Officer at 202-690-2358, Attn: Karen Malkin

- maintain the official fully executed copy of the MOU at the State Office.

B County Office Action

County Offices shall verify that a MOU is in place, as provided in subparagraph A, before any BWEP data identified in this notice is disclosed outside of USDA.

MOU Template

UNITED STATES DEPARTMENT OF AGRICULTURE

MEMORANDUM OF UNDERSTANDING

BETWEEN

FARM SERVICE AGENCY

AND

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

AND

_____FOUNDATION

AND

_____ DEPARTMENT OF AGRICULTURE

Purpose

The purpose of this Memorandum of Understanding (MOU) signed by the Department of Agriculture's (USDA) Farm Service Agency (FSA) and Animal and Plant Health Inspection Service (APHIS), the _____ Foundation (type in full name of applicable boll weevil eradication foundation; omit these references for California, Louisiana, Kansas and Kentucky as no such foundation exists), and the _____Department of Agriculture (full name of State government entity), is to provide a clear understanding regarding the sharing of program data, including Personally Identifiable Information (PII), between the employees of the four Parties and their authorized contractors and partners. The Foundation is the official cotton growers' organization of _____ (name of State) and is charged with administering survey and eradication programs for boll weevils, while _____ (State entity) provides regulatory and administrative support to the program. The Secretary has determined that APHIS has the Federal lead authority to cooperate with other Federal agencies, States, and other cooperators to carry out operations or measures to detect, control, eradicate, suppress, prevent, or retard the spread of plant pests, including boll weevils. APHIS recognizes the Foundation and _____ (State) as a cooperator necessary to assist in responding to the existing boll weevil pest threat to agricultural operations, and has informed FSA of such and requested that the data described below be shared with the Foundation immediately. FSA is the lead Federal agency charged with collecting the producer data described below.

MOU Template (Continued)

FSA, APHIS, the Foundation, and _____ (State) (hereinafter "Parties") recognize that by sharing the program data identified below, the Parties may more effectively ensure program integrity, performance, and compliance with existing regulations and statutes to carry forth their respective missions. The Parties recognize that the data described below is subject to the confidentiality provision of Section 1619 of the Food, Conservation, and Energy Act of 2008 and the Privacy Act of 1974 and agree to safeguard and prohibit further access to the data accordingly.

Data to be Shared

FSA, APHIS, the Foundation, and _____ (State) will provide program specific including PII data to each other. Each Party is responsible for transmitting such data to its own authorized employees, partners, and contractors, as needed, to carry forth the respective missions for boll weevil eradication, and for ensuring the protection of such data from nonauthorized persons. All persons who are not specifically authorized by one of the Parties are "nonauthorized persons," and as such are prohibited from access to the data at all times, absent the express written, signed consent of each producer whose data is requested.

The following types of data, relating to only those farms producing cotton, may be shared:

- State identification and county number (where reported and where located)
- Producer/land owner and business entity name, full address, phone number
- Producer/land owner tax identification number or social security number (SSN)
- Farm, tract, field, and unit identification numbers
- Producer share
- Acreage information including cotton crop code
- Practice code
- Crop status code
- Planting conversion factor
- Aerial photographs
- Common Land Unit (CLU) shape files and CLU attributes in USDA's Geographic Information System.

Authorities

The data described above is collected and protected by the Parties pursuant to the Food Conservation, and Energy Act of 2008, Pub. L. No. 110-234; Food, Conservation, Farm Security and Rural Investment Act of 2002; Plant Protection Act, 7 U.S.C. Sections 7701-772, as well as applicable emergency and disaster legislation, the Privacy Act of 1974, the E-Government Act of 2002, and related authorities.

MOU Template (Continued)

Data Utilization

The data will be used in the performance of each Party's respective mission to support the detection and eradication of boll weevils, as appropriate, to maintain productive farms and ranches. The Parties will use the data provided to complete and compare similar program data reported by producers to each organization and ensure program integrity by verifying that accurate program information is being used by the organization.

Data Security and Retention

The Parties recognize that much of the data to be shared is sensitive and identifies a person. Each Party is solely responsible for ensuring all program data, including storage media backups, collected and handled by FSA, APHIS, the Foundation, _____(State), or partners and contractors authorized by those Parties, are handled in full compliance with the privacy and security requirements of Federal legislation, Office of Management and Budget guidance, USDA regulations and guidance (including cyber security policies), as well as with any specific directives and policies promulgated by APHIS or FSA.

Each Party is solely responsible for ensuring that only those Party's employees, contractors, and partners who need this data in the performance of their duties for boll weevil eradication are authorized and provided access to such data. No cell phones or mobile devices will be used to transmit PII (such as, SSN and phone numbers). Each Party will ensure that access to the data is removed for any previously identified employees, partners, and contractors who no longer perform such functions related to boll weevil eradication.

Furthermore, the Parties are apprised of and agree they are bound to comply with Section 1619 of the Food Conservation, and Energy Act of 2008 (copy attached as Appendix A) and related USDA and FSA guidance, and understand they may not release any of the data provided by FSA or APHIS or by producers or landowners under this MOU to nonauthorized persons. The Foundation and _____ (State) will refer any requests for the data from nonauthorized persons to the Freedom of Information Office for either APHIS or FSA, as appropriate. The FSA Web link is: http://www.fsa.usda.gov/FSA/hrdapp?area=home&subject=landing&topic=foia.

The Foundation and _____(State) understand that the data they may obtain under this MOU is Federal government data, and the Foundation and _____(State) will return or certify destruction of any and all such data no longer necessary for cooperation in the eradication of boll weevils, as determined by USDA-APHIS.

Contacts

To facilitate and help ensure compliance, within 30 days of the signing of this MOU, each Party agrees to appoint a primary and secondary contact to administer the terms of this MOU and to apprise the other Parties of the name, title, email, mailing address, phone number, and FAX number for such appointed contacts. The primary contact for the Foundation will be its Chairman, and its secondary contact will be the employee responsible for receiving and securing electronic data from FSA. To support and validate each Party's data needs, the contacts will be responsible for verifying the authenticity of the data requester and the need for the information.

MOU Template (Continued)

Data Transfer
Each Party agrees to provide each other with requested data, at a reasonable frequency, and in a format and mode agreed upon at the time of each transfer, in full compliance with the privacy and security requirements of Federal legislation, Office of Management and Budget guidance, USDA regulations and guidance (including cyber security policies), as well as with any specific directives and policies promulgated by APHIS or FSA.

Amendments
This MOU may be amended at any time by mutual agreement of the Parties, in writing. Appendices may be attached and revised, as needed on mutual agreement, without necessitating the need to revise the MOU.

Effective Period and Termination
This MOU will be in effect on date of the final signature of each authorized Party and continue as long as USDA has an authorized program for boll weevil eradication. It may be modified or terminated at any time by mutual agreement of the Parties, in writing, or by one of the Parties with thirty days' notice, in writing, to the other Parties. Nothing in this MOU prevents the USDA Parties from suspending transmission of data in the event a security breach is suspected.

_____
_____, State Executive Director
Farm Service Agency

Executed this ___day of _____, 2008

_____
_____, Regional Director
Animal and Plant Health Inspection Service

Executed this ___day of _____, 2008

_____
_____, Chairman
Boll Weevil Eradication Foundation of ____

Executed this ___day of _____, 2008

_____
_____, [Commissioner/Agency Head]
_____ Department of Agriculture &

Executed this ___day of _____, 2008

MOU Template (Continued)

Appendix A

Section 1619 of the 2008 Farm Bill

SEC. 1619. INFORMATION GATHERING.

(a) GEOSPATIAL SYSTEMS.—The Secretary shall ensure that all the geospatial data of the agencies of the Department of Agriculture are portable and standardized.

(b) LIMITATION ON DISCLOSURES.—

(1) **DEFINITION OF AGRICULTURAL OPERATION**.—In this subsection, the term ''agricultural operation'' includes the production and marketing of agricultural commodities and livestock.

(2) **PROHIBITION.**—Except as provided in paragraphs (3) and (4), the Secretary, any officer or employee of the Department of Agriculture, or any contractor or cooperator of the Department, shall not disclose—

(A) information provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in programs of the Department; or

(B) geospatial information otherwise maintained by the Secretary about agricultural land or operations for which information described in subparagraph (A) is provided.

(3) **AUTHORIZED DISCLOSURES**.—

(A) LIMITED RELEASE OF INFORMATION.—If the Secretary determines that the information described in paragraph (2) will not be subsequently disclosed except in accordance with paragraph (4), the Secretary may release or disclose the information to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in any Department program—

(i) when providing technical or financial assistance with respect to the agricultural operation, agricultural land, or farming or conservation practices; or

(ii) when responding to a disease or pest threat to agricultural operations, if the Secretary determines that a threat to agricultural operations exists and the disclosure of information to a person or cooperating government entity is necessary to assist the Secretary in responding to the disease or pest threat as authorized by law.

(4) **EXCEPTIONS.—**Nothing in this subsection affects—

(A) the disclosure of payment information (including payment information and the names and addresses of recipients of payments) under any Department program that is otherwise authorized by law;

(B) the disclosure of information described in paragraph (2) 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; or

(C) the disclosure of information described in paragraph (2) pursuant to the consent of the agricultural producer or owner of agricultural land.

MOU Template (Continued)

(5) **CONDITION OF OTHER PROGRAMS**.—The participation of the agricultural producer or owner of agricultural land in, or receipt of any benefit under, any program administered by the Secretary may not be conditioned on the consent of the agricultural producer or owner of agricultural land under paragraph 4(c).

(6) **WAIVER OF PRIVILEGE OR PROTECTION**.—The disclosure of information under paragraph (2) shall not constitute a waiver of any applicable privilege or protection under Federal law, including trade secret protection.