

CONFIDENTIALITY CERTIFICATION AND REQUEST FOR ACCESS TO NATIONAL RESOURCES INVENTORY (NRI) DATA

Confidentiality Statement

The Natural Resources Conservation Service (NRCS) is responsible for conducting the National Resources Inventory (NRI) as mandated by United States Department of Agriculture (USDA) legislative authorities and directed by the Secretary of Agriculture. The NRCS objectives in conducting natural resource inventories are to: (a) fulfill legislative mandates; (b) conduct all phases of the NRI in accordance with scientifically developed statistical principles, procedures, and practices; (c) obtain scientifically credible, timely, and relevant information about the Nation's natural resources and environmental conditions at national, regional, and sub-regional levels; (d) collect and develop science-based, continuous natural resource information in support of NRCS strategic planning and accountability; (e) provide information to evaluate the effectiveness of conservation programs; (f) support development of agri-environmental policy and programs at national, regional, and local levels; (g) provide information to the public on the status, condition, and trends of the Nation's soil, water, and related resources; and (h) provide the scientific community with natural resource information to facilitate the development of models, analysis tools, and reports.

It is NRCS policy to operate the NRI program on the basis of rigorous, scientifically developed sample survey (i.e., statistical) principals and protocols. Inherent to this policy is the requirement to maintain and protect the integrity and confidentiality of data collection sites so that periodic monitoring of conditions at these sites continues to provide statistically valid data.

Proper security and confidentiality of information and materials pertaining to locations of data gathering sites must be maintained. Site locations (identified by coordinate systems, depicted by maps or photographs, or described by direct observation of survey location conditions, and other materials assembled for inventories) are not public information and shall be used only for official inventory purposes. This critical requirement must be met in order to ensure the statistical integrity and validity of the NRI survey design, dataset, and estimates, to prevent intended or unintended sampling bias, and to maintain the confidentiality and cooperation of landowners and operators.

In order to meet NRCS policy requirements related to the confidentiality of NRI sample locations and to maintain statistical validity, integrity, and credibility of NRI data and estimates, the Director, Resource Inventory & Assessment Division (RIAD), NRCS, has established this Confidentiality Agreement framework. This agreement is to be signed and adhered to by all individuals requiring access to or use of NRI program sensitive information. This agreement applies to NRI program staff and NRCS cooperators approved under these provisions.

The Confidentiality Agreement includes four sections. Sections A and B relate to specific kinds of data requests from individuals. Section C is a data release form used by the NRI Confidentiality Officer delegated by the RIAD Director to approve or disapprove such requests. Section D outlines federal code related to the agreement. The agreement requires acceptance of the provisions and stipulations identified in sections A, B, C, and D of this document.

- A) Certification and restrictions on use of unpublished National Resources Inventory (NRI) data.
- B) National Resources Inventory (NRI) Data Request Overview
- C) National Resources Inventory (NRI) Data Release Authorization
- D) United States Code, Title 18, Section 1905 "Disclosure of confidential information generally", United States Code, Title 7, Section 2276 "Confidentiality of Information, United States Code, Title 7, Section 2204 "General duties of Secretary; advisory functions; research and development"

These provisions are consistent with, and do not supercede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to the Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

These restrictions are consistent with and do not supercede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act of 1989 (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.

A: CERTIFICATION AND RESTRICTIONS ON USE OF UNPUBLISHED NATIONAL RESOURCES INVENTORY (NRI) DATA

The specific conditions of this agreement are:

1. The data provided have not been published by the Natural Resources Conservation Service and cannot be considered as official estimates.
2. All individual NRI sample site location data are confidential and, (check one): must be used on-site in NRCS, must be used on-site in NRCS and at approved telework location, must be used on-site at Agency/Organization identified on page 4, must be used on-site at Agency/Organization identified on page 4 and at approved telework location, proximity of workstation may result in incidental exposure to NRI data, NRI data access has not been requested nor approved. Any inadvertent awareness of NRI data must be kept confidential.
3. No copies of reports or computer files or data sets containing these sample site locations can be made or published. Also, summaries that could possibly reveal the location and/or identity of an NRI sample site may not be published nor made public to anyone not covered by this agreement.
4. These data will be used for "*statistical, analytical and research purposes*" only, and *for purposes that enhance the National Resources Inventory and benefit the Secretary of Agriculture's ability to direct programs related to natural resources.*
5. Dissemination or sharing of data, whether in original form or aggregated, with persons other than those who are directly associated with the project for which the data were obtained and who have completed the CONFIDENTIALITY CERTIFICATION AND REQUEST FOR ACCESS TO UNPUBLISHED NATIONAL RESOURCES INVENTORY (NRI) DATA agreement is strictly prohibited.
6. A courtesy briefing of any report using unpublished data will be given to the NRI Confidentiality Officer, prior to publication. No such paper shall be sent for publication without a sign-off from the NRI Confidentiality Officer. Any questions regarding access to unpublished data, propriety of reports or analysis shall be referred to the NRI Confidentiality Officer for appropriate response.

In addition to the above conditions, I have been provided a copy of United States Code, Title 18, Section 1905, "*Disclosure of confidential information generally*", Title 7, Section 2276, "*Confidentiality of Information*", and Title 7, Section 2204, "*General duties of the Secretary; advisor functions; research and development*".

If approval is granted, all employees and/or sub-agents who will have access to NRI datasets will be required to sign a copy of the CONFIDENTIALITY CERTIFICATION AND REQUEST FOR ACCESS TO UNPUBLISHED NATIONAL RESOURCES INVENTORY (NRI) DATA agreement, including any personnel who have access by virtue of their administration of equipment or sites where the data is located. This signature certifies compliance with the laws and regulations listed in the agreement regarding confidentiality and other restrictions limiting the use of NRI datasets to the purpose(s) stated in section B: "National Resources Inventory (NRI) Data Request Overview".

7. Acknowledgment:

I certify that I have read the above-mentioned conditions and regulations this _____ day of _____, _____, and understand and agree to these conditions concerning the use of unpublished NRI data provided by the Natural Resources Conservation Service (NRCS) in response to my request.

(Signature of individual)

(Type or print name)

(Agency/Organization)

(Mailing address)

(Email Address)

(Phone Number)

Witnessed by: _____
(Type or print name)

Date Witnessed: _____

(Signature of Witness)

(Witness Approved by NRI Confidentiality Officer)

B: NATIONAL RESOURCES INVENTORY (NRI) DATA REQUEST OVERVIEW

Specify data needed (include dates of coverage if applicable):

The following use will be made of these data:

Attach other appropriate project information including:

- (1) Timing of the proposed project.
- (2) Methods of analysis or statistical techniques to be used.
- (3) Levels of reliability required.
- (4) Level of interpretation planned.
- (5) Where the data set will reside or be used.
- (6) Organizational units and/or sub-agents who will have access to the data.
- (7) Disposition of data

C: NATIONAL RESOURCES INVENTORY (NRI) DATA RELEASE

AUTHORIZATION (reference section A, "Certification and restrictions on use of unpublished National Resources Inventory (NRI) data", and section B, "National Resources Inventory (NRI) data request overview")

Approved

Date of data base (if applicable)

Disapproved for the following reasons:

Data access expiration date (if applicable)

Signature of NRI Confidentiality Officer

Date

D: UNITED STATES CODE, Title 18, Section 1905; UNITED STATES CODE, Title 7, Section 2276 and, UNITED STATES CODE, Title 7, Section 2204

UNITED STATES CODE
Title 18, Section 1905

Disclosure of confidential information generally. Whoever, being an officer or employee of the United States or of any department or agency thereof, any person acting on behalf of the Federal Housing Finance Agency, or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 1311–1314), or being an employee of a private sector organization who is or was assigned to an agency under chapter 37 of title 5, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined under this title, or imprisoned not more than one year, or both; and shall be removed from office or employment.

UNITED STATES CODE
Title 7, Section 2276

Confidentiality of information

(a) Authorized disclosure

In the case of information furnished under a provision of law referred to in subsection (d) of this section, neither the Secretary of Agriculture, any other officer or employee of the Department of Agriculture or agency thereof, nor any other person may---

(1) use such information for a purpose other than the development or reporting of aggregate data in a manner such that the identity of the person who supplied such information is not discernible and is not material to the intended use of such information;

(2) disclose such information to the public, unless such information has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information; or

(3) in the case of information collected under the authority described in paragraph (12) or (13) of subsection (d), 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.

(b) Duty of Secretary; immunity from disclosure; necessary consent

(1) In carrying out a provision of law referred to in subsection (d) of this section, no department, agency, officer, or employee of the Federal Government, other than the Secretary of Agriculture, shall require a person to furnish a copy of statistical information provided to the Department of Agriculture.

(2) A copy of such information:

(A) shall be immune from mandatory disclosure of any type, including legal process; and

(B) shall not, without the consent of such person be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(c) Violations; penalties

Any person who shall publish, cause to be published, or otherwise publicly release information collected pursuant to provision of law referred to in subsection (d) of this section, in any manner or for any purpose prohibited in section 1 (a) of this section, shall be fined not more than \$10,000 or imprisoned for not more than 1 year, or both.

(d) Specific provisions for collection of information

For purposes of this section, a provision of law referred to in this subsection means-

(1) the first section of the Act entitled "An Act authorizing the Secretary of Agriculture to collect and publish statistics of the grade and staple length of cotton", approved March 3, 1927 (7 U.S.C. 471) (commonly referred to as the "Cotton Statistics and Estimates Act");

(2) the first section of the Act entitled "An Act to provide for the collection and publication of statistics of tobacco by the Department of Agriculture", approved January 14, 1929 (7 U.S.C. 501);

(3) the first section of the Act entitled "An Act to provide for the collection and publication of statistics of peanuts by the Department of Agriculture", approved June 24, 1936 (7 U.S.C. 951);

(4) section 203(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g));

(5) section 526(a) of the Revised Statutes (7 U.S.C. 2204(a));

(6) the Act entitled "An Act providing for the publication of statistics relating to spirits of turpentine and resin", approved August 15, 1935 (7 U.S.C. 2248);

(7) section 42 of title 13;

(8) section 4 of the Act entitled "An Act to establish the Department of Commerce and Labor", approved February 14, 1903 (15 U.S.C. 1516);

(9) section 2 of the joint resolution entitled "Joint resolution relating to the publication of economic and social statistics for Americans of Spanish origin or descent", approved June 16, 1976 (15 U.S.C. 1516a);

- (10) section 3(e) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642(e));
- (11) section 2204g of this title;
- (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; or
- (13) section 10109 of the Agriculture Improvement Act of 2018.

(e) Information provided to Secretary of Commerce

This section shall not prohibit the release of information under section 2204g(f)(2) of this title.

UNITED STATES CODE

Title 7, Sec. 2204

General duties of Secretary; advisory functions; research and development

(a) The Secretary of Agriculture shall procure and preserve all information concerning agriculture, rural development, aquaculture, and human nutrition which he can obtain by means of books and correspondence, and by practical and scientific experiments, accurate records of which experiments shall be kept in his office, by the collection of statistics, and by any other appropriate means within his power; he shall collect new and valuable seeds and plants; shall test, by cultivation, the value of such of them as may require such tests; shall propagate such as may be worthy of propagation; and shall distribute them among agriculturists; and he shall advise the President, other members of his Cabinet, and the Congress on policies and programs designed to improve the quality of life for people living in the rural and nonmetropolitan regions of the Nation.

(b) The Secretary is authorized to initiate or expand research and development efforts related to solution of problems of rural water supply, rural sewage and solid waste management, rural housing, rural industrialization, and technology appropriate to small- and moderate-sized family farming operations, and any other problem that the Secretary may determine has an effect upon the economic development or the quality of life in rural areas.