

State of Oregon
Department of Environmental Quality

Memorandum

Date: Dec. 1, 2011

To: Environmental Quality Commission

From: Joni Hammond, Deputy Director

Subject: Agenda item G, Informational item: Conservation Effectiveness Partnership update
Dec. 15-16, 2011, EQC meeting

Purpose of item The purpose of this agenda item is to provide an update on the program activities of the Conservation Effectiveness Partnership, developed among the Oregon Watershed Enhancement Board, the Natural Resources Conservation Service and the Oregon Department of Environmental Quality in 2010.

Background The three partner agencies began meeting in 2010 to explore opportunities for collaboration on the shared grant program goals of improving water quality, watershed functions and processes. The agencies share program elements, and recognized a benefit to the public and agencies if the programs could more readily share information. The Oregon Watershed Enhancement Board, the Natural Resources Conservation Service and the Oregon Department of Environmental Quality into a memorandum of understanding in 2010 to formalize this collaboration and allow the sharing of certain types of data.

The goals of the partnership are to:

- Build an understanding of the extent of the investment in watershed improvement actions through the agencies' collective grant programs
- Develop a better understanding of how local organizations are utilizing the agencies' respective grant programs, in concert
- Evaluate the impacts of grant investments on water quality and watershed health;
- Describe gaps in the treatment of watersheds; and
- Design tools and methods to report accomplishments to the public.

The partner agencies selected two "pilot watersheds," the Wilson River in Tillamook Bay, and Wychus Creek along the Upper Deschutes River, due to the length of time and investment of grant program dollars, the magnitude of projects undertaken, the availability of current

data sets for these watersheds, and the potential to detect trends of change. The Wilson River evaluation focused on evaluating trends of in-stream bacteria, and the Whychus Creek evaluation focused on stream temperature trends in response to conservation projects intended to increase streamflow.

Results

Wilson River

Over the past year, the partnership completed analyses of water quality monitoring data collected in the Wilson River. Results indicate that the suite of conservation and restoration actions accomplished by the local partners, and made possible or supported by the three partner agencies' grant programs, have reduced the chance of exceeding the water quality standard for bacteria. Modeling results also indicate that the chance of exceeding the water quality standard will continue to decrease over time. Prior to 2003, the Wilson River regularly violated this water quality standard. The benefit of a long-term reliable data set made this analysis possible and practical.

Wychus Creek

Results from Whychus Creek are also promising. Analysis of stream temperature data from 1995 to 2009 indicates that Whychus Creek stream temperatures have decreased following investments in irrigation efficiency projects that caused an increase in stream flow. In addition, an effectiveness monitoring project approved by OWEB in 2008 demonstrated a change in the macroinvertebrate community in Whychus Creek from 2005 to 2009, which suggests the stream is experiencing decreasing stream temperatures and reduction in transports of sediment.

Outreach efforts

With information and results from the pilot areas now available, the partnership has initiated outreach efforts. Recently, the Natural Resources Conservation Service secured additional funding for contracted outreach services. The partnership will use the contractor's expertise, and outreach and communications staff at the three agencies, to identify the most efficient and effective method to deliver the results of the program. Landowners and agency field staff will benefit from having the partnership's pilot study results as communication tools to encourage additional restoration and conservation opportunities for the respective agency grant programs.

Over the next year, staff will deliver information on new project areas. Additional information will be delivered on the partnership goals, such as identifying the extent of ecological restoration and how local organizations are using the combination of the agencies' grant programs to implement projects. Results from the education and outreach campaign will be distributed and made available on agency

websites.

Next steps

Since the inception of the partnership, the inclusion of key agencies has been a planned and staged activity. The Oregon Department of Agriculture has expressed interest in joining the partnership efforts in light of recent discussions on the evaluation of water quality data, particularly on agricultural lands. Staff from all four agencies have met to discuss the benefits of the partnership. The three current partner agencies have outlined the potential steps for ODA's inclusion under the existing memorandum of understanding.

Currently, the partnership is discussing ways to identify additional watersheds for evaluation of restoration effectiveness. In the coming months, the original site selection list and new locations, based on the agencies' program investment areas, will be evaluated. The partnership is discussing the benefits of evaluating new watersheds with existing monitoring data or focusing resources on certain watersheds to augment existing, but insufficient data.

Attachments

A. 2010 Memorandum of Understanding

Approved:

Division: _____

Section: _____

Report prepared by: Ryan Mitchie
Phone: 503-229-6162

MEMORANDUM OF UNDERSTANDING

AMONG

U.S. DEPARTMENT OF AGRICULTURE- NATURAL RESOURCE CONSERVATION SERVICE AND OREGON WATERSHED ENHANCEMENT BOARD AND OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

PARTIES:

The MEMORANDUM OF UNDERSTANDING (MOU) is hereby entered into by and between the USDA-Natural Resources Conservation Service (USDA-NRCS), Oregon Watershed Enhancement Board (OWEB) and Oregon Department of Environmental Quality (DEQ).

RELATIVE TO:

The effectiveness of cumulative conservation and restoration actions in achieving natural resource outcomes through collaborative monitoring, evaluation and reporting.

AUTHORITY:

USDA-NRCS Conservation Technical Assistance Program (CTA), 16 U.S.C. 590a-590f, 590q, 7 CFR Part 610 (CFDA 10.902).

PURPOSE:

USDA-NRCS, OWEB and DEQ have the following missions that provide a basis for this partnership. The missions for each agency are:

- USDA-NRCS' mission is to help people conserve, maintain, and improve our natural resources and environment.
- OWEB's mission is to help protect and restore healthy watersheds and natural habitats that support thriving communities and strong economies.
- DEQ's mission is to be a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.

As part of these missions, USDA-NRCS, OWEB and DEQ have a need for monitoring and evaluating the effectiveness of conservation and restoration activities from their collective technical and financial assistance programs. This type of cumulative effectiveness monitoring can play a key role in demonstrating the accountability, success, and value of restoration investments by our agencies. This information will also allow the agencies to be more strategic with implementation of programs and resources.

However, each agency alone does not have the resources to effectively achieve the goal of monitoring, evaluating and reporting their cumulative conservation effectiveness. It is therefore necessary to work together to further each agency's missions through partnership and

coordination of resources. This partnership will facilitate sharing information, data and data analysis of natural resource actions and monitoring data in Oregon.

Therefore, the USDA-NRCS, OWEB, and DEQ deem it mutually advantageous to cooperate in this undertaking.

IT IS MUTUALLY AGREED AND UNDERSTOOD BY ALL PARTIES THAT:

1. USDA-NRCS, OWEB and DEQ will work together to share information and technical expertise to monitor, evaluate and report the effectiveness of cumulative conservation and restoration actions in achieving natural resource outcomes.
2. Nothing herein shall be construed as obligating the parties to expend or as involving the parties in any contract or other obligation for future payment of money in excess of funds authorized by law and administratively made available.
3. The parties will develop appropriate agreements under this MOU to further define this partnership by identifying specific geographic areas within Oregon to focus our collaborative monitoring and evaluation efforts.
4. Privacy of personal information relating to USDA-NRCS Programs will be in accordance with Section 1619 of Title II of the Food, Conservation, and Energy Act of 2008, PL 110-246; 122 Stat. 1751. The "Acknowledgement of Section 1619 Compliance" document will be signed by each agency and attached to this MOU. Any staff using NRCS data must be made aware of the protection of private personal information.
5. This collaboration and the information shared will not be used for enforcement actions by DEQ or actions by DEQ, OWEB or NRCS unrelated to the intent of the effort to monitor, evaluate and report the effectiveness of cumulative conservation and restoration actions in achieving natural resource outcomes.
6. This agreement takes effect upon the signature of USDA-NRCS, OWEB and DEQ and shall remain in effect until September 30, 2015. This memorandum can be modified or terminated at any time by mutual consent of the parties, thereto or can be terminated in whole, or in part by either party alone by giving 30 days notice in writing to the other.
7. By signing this agreement the recipients assure the USDA-NRCS that the program or activities provided for under this agreement will be conducted in compliance with all applicable Federal civil rights laws, rules, regulations, and policies.

PRINCIPAL CONTACTS FOR EACH AGENCY:

USDA-NRCS, Oregon
Tom Makowski
Leader for Oregon Water
Resources Planning Team

OWEB
Greg Sieglitz
Manager, Monitoring and
Reporting Program

DEQ
Eugene Foster
Manager, Watershed
Management, WQ Division

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DEQ Headquarters Office
811 SW 6th Ave
Portland, OR 97204
(503) 229-5325
foster.eugene.p@deq.state.or.us

APPROVED BY:

USDA – Natural Resources Conservation Service (NRCS)

Name: Ron Alvarado

Signature: 

Title: Oregon, State Conservationist

Date: 09/29/10

En 7/26/10

Oregon Watershed Enhancement Board (OWEB)

By: Tom Byler _____

Signature: _____

Title: Director, OWEB

Date: _____

Oregon Department of Environmental Quality (DEQ)

By: Dick Pederson _____

Signature: _____

Title: Director, DEQ

Date: _____

ATTACHMENTS:

- A. OWEB - Acknowledgement of Section 1619 Compliance
- B. DEQ - Acknowledgement of Section 1619 Compliance

MOU#: 120-13-2010-MOU-01-OWEB-DEQ

APPROVED BY:

USDA – Natural Resources Conservation Service (NRCS)

Name: Ron Alvarado


Signature: _____

Title: Oregon, State Conservationist

Date: _____

Oregon Watershed Enhancement Board (OWEB)

By: Tom Byler _____

Signature: 

Title: Director, OWEB

Date: 9/27/10

Oregon Department of Environmental Quality (DEQ)

By: Dick Pederson _____

Signature: _____

Title: Director, DEQ

Date: _____

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USDA – Natural Resources Conservation Service (NRCS)

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Signature: _____

Title: Oregon, State Conservationist

Date: _____

Oregon Watershed Enhancement Board (OWEB)

By: Tom Byler _____

Signature: _____

Title: Director, OWEB

Date: _____

Oregon Department of Environmental Quality (DEQ)

By: Dick Pederson _____

Signature: *Dick Pederson*

Title: Director, DEQ

Date: 9-27-10

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Attachment A – MOU#: 120-13-2010-MOU-01-OWEB-DEQ

**NATURAL RESOURCES CONSERVATION SERVICE (NRCS)
UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)**

ACKNOWLEDGMENT OF SECTION 1619 COMPLIANCE

Purpose and Background

The purpose of this Acknowledgment of Section 1619 compliance (hereinafter “Acknowledgment”) is to require acknowledgment by Oregon Watershed Enhancement Board (OWEB) of the requirements of Section 1619 of the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill), which prohibits disclosure of certain information by the Department of Agriculture (USDA) and its cooperators. OWEB assists NRCS in the delivery of conservation-related services (for example, services that sustain agricultural productivity, improve environmental quality, reduce soil erosion, enhance water supplies, improve water quality, increase wildlife habitat, and reduce damages caused by floods and other natural disasters) or with monitoring, assessing, or evaluating of conservation benefits from USDA conservation programs under a Memorandum of Understanding (MOU) **120-13-2010-MOU-01-OWEB-DEQ**. Those individuals or organizations (governmental or nongovernmental) that assist NRCS with providing conservation-related services are known as NRCS Conservation Cooperators.

NRCS Conservation Cooperator

As an NRCS Conservation Cooperator, OWEB is authorized access to otherwise-protected agricultural information. Such protected information must be strictly limited to only that information necessary for OWEB to perform monitoring, assessing, or evaluating of conservation benefits. Disclosure to OWEB can include receiving the protected information either 1) directly from NRCS; 2) directly from the producer or owner as part of the process required to enable a producer or owner to participate in a USDA program; or 3) in another manner with the producer’s permission.

Any record in the custody of OWEB is subject to Oregon Public Records Law, Oregon Revised Statutes (ORS) 192.410-.505 as a public record. Generally, that law gives any person the right to inspect any nonexempt public record in the Department’s custody. However, ORS 192.502(8) exempts from disclosure “any public records or information the disclosure of which is prohibited by federal law or regulations.”

Section 1619 of the 2008 Farm Bill

Section 1619 of the Food, Conservation, and Energy Act of 2008 (Exhibit 1) (hereinafter “section 1619”) provides that USDA, or any “contractor or cooperator” of USDA, “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 the 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.” USDA may disclose protected information to a USDA cooperator when such cooperator is “providing technical or financial assistance with

Attachment A – MOU#: 120-13-2010-MOU-01-OWEB-DEQ

respect to the agricultural operation, agricultural land, or farming or conservation practices” if USDA determines that the protected information will not be subsequently disclosed, except in accordance with the exceptions contained in Section 1619. OWEB is a “contractor or cooperator” of USDA within the meaning of Section 1619. Accordingly, OWEB may not subsequently disclose any information protected by section 1619. By signature on this Acknowledgment, OWEB is certifying future compliance with the statutory obligations under Section 1619. Upon execution of this Acknowledgment, NRCS may continue to provide to OWEB the protected information provided under Memorandum of Understanding (MOU) 120-13-2010-MOU-01-OWEB-DEQ.

Responsibilities

OWEB (hereinafter the “Conservation Cooperator”) certifies that:

- Signature on this Acknowledgment indicates acknowledgment and understanding that the Conservation Cooperator is legally bound by Federal statute to comply with the provisions of Section 1619 and that, unless required by law or court order, the Conservation Cooperator will not subsequently disclose information protected by section 1619 to any individual or organization that is not directly covered by this Acknowledgment. If a person submits a request under Oregon’s Public Records Law for the disclosure of such information, the Conservation Cooperator will assert any and all exemptions from disclosure that it believes apply. Any such subsequent disclosure of the protected information (except as permitted under Section 1619) will be considered a violation of Section 1619. The Conservation Cooperator will be held responsible should disclosure of the protected information occur.
- Signature on this Acknowledgment legally binds every owner, manager, supervisor, employee, contractor, agent, and representative of the Conservation Cooperator to comply with the provisions in Section 1619. The Conservation Cooperator must consult with NRCS prior to providing protected information to an entity or individual outside of the Conservation Cooperator and as necessary to implement the program to ensure that such release is permissible.
- The Conservation Cooperator will use the protected information only to perform work that is directly connected to perform monitoring, assessing, or evaluating conservation benefits. Use of the protected information to perform work that is not directly connected to perform monitoring, assessing, or evaluating conservation benefits is expressly prohibited.
- The Conservation Cooperator must internally restrict access to the protected information to only those individuals who have a demonstrated need to know the protected information in order to perform monitoring, assessing, or evaluation of conservation benefits.
- The provisions in Section 1619 are continuing obligations. Even when the Conservation Cooperator is no longer an NRCS Conservation Cooperator, or when individuals currently affiliated with the Conservation Cooperator become no longer so affiliated,

Attachment A – MOU#: 120-13-2010-MOU-01-OWEB-DEQ

every person having been provided access to the protected information will continue to be legally bound to comply with the provisions of this Acknowledgment.

- The Conservation Cooperator must notify all managers, supervisors, employees, contractors, agents, and representatives that are performing work directly related to the work or that have access to the data about this Acknowledgment and the requirements of Section 1619. For the duration of this Acknowledgment, notifications about the existence of this Acknowledgment must be made to those individuals who are new to the organization and periodic notifications must be sent throughout the organization (as well as to all contractors and agents) for those that are performing work directly related to the work or that have access to the data to remind all about the ongoing and continuing requirements.
- When the Conservation Cooperator is unsure whether particular information is covered or protected by Section 1619, the Conservation Cooperator must consult with NRCS to determine whether the information must be withheld.
- This Acknowledgment is nontransferable and may not be bought, sold, traded, assigned, extended to, or given free of charge to any other individual or organization not directly covered by this Acknowledgment.
- Use of the protected information for any purpose is expressly prohibited when an individual or organization is no longer an NRCS Conservation Cooperator. Subject to records retention requirements under Oregon law, when the Conservation Cooperator is no longer an NRCS Conservation Cooperator, any protected information provided under this Acknowledgment must be immediately destroyed or returned to NRCS. The Conservation Cooperator must provide to NRCS written certification that the protected information (paper copy, electronic copy, or both) has been properly destroyed, removed from any electronic storage media, or both.

Protected Information

An example of the type of information prohibited by disclosure under Section 1619 includes, but is **not limited to**, the following:

- State identification and county number (where reported and where located).
- Producer or landowner name, business full address, phone number, Social Security Number, and similar personal identifying information.
- Farm, tract, field, and contract numbers.
- Production shares and share of acres for each Farm Serial Number (FSN) field.
- Acreage information, including crop codes.
- All attributes for Common Land Units (CLUs) in USDA's Geospatial Information System
- Any photographic, map, or geospatial data that, when combined with other maps, can be used to identify a landowner.
- Location of conservation practices.

Attachment A – MOU#: 120-13-2010-MOU-01-OWEB-DEQ

Section 1619 allows 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*” (emphasis added). The names and payment information of producers generally may be provided to the public; however the Conservation Cooperator shall consult with NRCS if there is any uncertainty as to the provision of such information.

Section 1619 also allows disclosure of otherwise protected information 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 cite.” The Conservation Cooperator must consult with NRCS as to whether specific information falls within this exception prior to relying on this exception.

Violations

The Conservation Cooperator will be held responsible for violations of this Acknowledgment and Section 1619. A violation of this Acknowledgment by the Conservation Cooperator may result in action by NRCS, including termination of the underlying Memorandum of Understanding (MOU) 120-13-2010-MOU-01-OWEB-DEQ.

Effective Period

This Acknowledgment will be in effect on the date of the final signature and continues until NRCS notifies the Conservation Cooperator that the Acknowledgment is no longer required based on changes in applicable Federal law.

Signature of the NRCS Conservation Cooperator and the Date Signed

Name:



Title:

Executive Director

Executed this

27th

day of

September

, 2010

Attachment A – MOU#: 120-13-2010-MOU-01-OWEB-DEQ

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.

(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.

**NATURAL RESOURCES CONSERVATION SERVICE (NRCS)
UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)**

ACKNOWLEDGMENT OF SECTION 1619 COMPLIANCE

Purpose and Background

The purpose of this Acknowledgment of Section 1619 compliance (hereinafter “Acknowledgment”) is to require acknowledgment by Oregon Department of Environmental Quality (DEQ) of the requirements of Section 1619 of the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill), which prohibits disclosure of certain information by the Department of Agriculture (USDA) and its cooperators. DEQ assists NRCS in the delivery of conservation-related services (for example, services that sustain agricultural productivity, improve environmental quality, reduce soil erosion, enhance water supplies, improve water quality, increase wildlife habitat, and reduce damages caused by floods and other natural disasters) or with monitoring, assessing, or evaluating of conservation benefits from USDA conservation programs under a Memorandum of Understanding (MOU) **120-13-2010-MOU-01-OWEB-DEQ**. Those individuals or organizations (governmental or nongovernmental) that assist NRCS with providing conservation-related services are known as NRCS Conservation Cooperators.

NRCS Conservation Cooperator

As an NRCS Conservation Cooperator, DEQ is authorized access to otherwise-protected agricultural information. Such protected information must be strictly limited to only that information necessary for DEQ to perform monitoring, assessing, or evaluating of conservation benefits. Disclosure to DEQ can include receiving the protected information either 1) directly from NRCS; 2) directly from the producer or owner as part of the process required to enable a producer or owner to participate in a USDA program; or 3) in another manner with the producer’s permission.

Any record in the custody of DEQ is subject to Oregon Public Records Law, Oregon Revised Statutes (ORS) 192.410-.505 as a public record. Generally, that law gives any person the right to inspect any nonexempt public record in the Department’s custody. However, ORS 192.502(8) exempts from disclosure “any public records or information the disclosure of which is prohibited by federal law or regulations.”

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Attachment B – MOU#: 120-13-2010-MOU-01-OWEB-DEQ

USDA cooperator when such cooperator is “providing technical or financial assistance with respect to the agricultural operation, agricultural land, or farming or conservation practices” if USDA determines that the protected information will not be subsequently disclosed, except in accordance with the exceptions contained in Section 1619. DEQ is a “contractor or cooperator” of USDA within the meaning of Section 1619. Accordingly, DEQ may not subsequently disclose any information protected by section 1619. By signature on this Acknowledgment, DEQ is certifying future compliance with the statutory obligations under Section 1619. Upon execution of this Acknowledgment, NRCS may continue to provide to DEQ the protected information provided under Memorandum of Understanding (MOU) **120-13-2010-MOU-01-OWEB-DEQ**.

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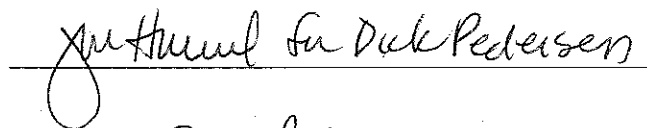
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Signature of the NRCS Conservation Cooperator and the Date Signed



Name: Duane Pedersen

Title: Director

Executed this 27 day of Sept, 20 10

SEC. 1619. INFORMATION GATHERING.

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(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.

(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.