

National Agricultural Statistics Service Data and Freedom of Information Act Requests

A recent ruling by the U.S. Court of Appeals in the case of Multi Ag Media LLC v. Department of Agriculture has raised questions about whether the producer-level information collected by the National Agricultural Statistics Service (NASS) on its surveys and censuses is subject to disclosure under the Freedom of Information Act (FOIA). The following points address those questions.

- The recent court ruling in the FOIA case involving the Farm Service Agency (FSA) has raised questions about the confidentiality of producer information reported to the National Agricultural Statistics Service.
- Unlike FSA, NASS is governed by specific statutes that explicitly prohibit the agency from releasing any information that is collected under our pledge of confidentiality and that could be traced back to an individual producer or farm operation. These statutes include Title 7, U.S. Code, Section 2276 and the Confidential Information Protection and Statistical Efficiency Act.
- Because of these specific statutes, NASS is covered under FOIA Exemption 3, a straightforward statement that exempts disclosure of information that is protected from disclosure by other laws. In contrast, FSA argued Exemption 6, which exempts disclosure of personal information when there is an unwarranted invasion of personal privacy. The court was then required to interpret how invasive the potential disclosure would be.
- Personal information collected by NASS under our pledge of confidentiality, including data reported by producers, is protected not only from FOIA requests, but from being used for any non-statistical purpose in any judicial or administrative action. In fact, the only person who can request a copy of an individual producer's data reported to NASS is the person who reported it.
- Names, addresses, phone numbers and other personal identifiers are fully protected by NASS with the force of law. After collecting data, NASS processes it independent of such identifiers. Original paper questionnaires are kept in a secure area, and then destroyed as prescribed by law.
- Only authorized persons working for NASS as employees or sworn agents can access individual data and only for approved official purposes. These individuals sign a legally binding confidentiality agreement and are subject to fines (up to \$250,000) and imprisonment (up to 5 years) for unauthorized disclosure.
- The recent court ruling certainly make NASS's job more difficult, since the success of the statistics program is dependent upon producers' honest disclosure of sensitive information about their business operations. However, participants can be assured that none of the laws protecting NASS data have been compromised as a result of the recent FSA ruling.