

ACTION ITEM FORM



Subject of Action Item: Farm Bill Section 1619—Public Access to CLU data.
(Policy Title)

Submitted By: Roger Johnson North Dakota
(Name) (State)

Text (Please write legibly):

Section 1619 of the 2008 Farm Bill prohibits public access to Common Land Unit (CLU) data. Since 2004, CLU data has been accessible on the Natural Resources Conservation Service (NRCS) data gateway to anyone requesting such information.

It appears that Section 1619 is intended to counter a successful legal action brought against the U.S. Department of Agriculture (USDA) by Multi Ag Media, LLC. The lawsuit requested the release of USDA program compliance data. On February 15, 2008 the U.S. Court of Appeals, DC Circuit, overturned a district court; ruling in favor of Multi Ag Media and ordered the release of USDA program compliance data.

In addition to providing non-disclosure protection of USDA program compliance data, Section 1619 also closed public access to CLU data, which is widely used by a variety of agriculture related individuals and entities.

Examples of individuals and entities that rely on access to CLU data include farmers, ranchers, rural appraisers, chemical companies, seed companies, crop consultants, co-ops, country elevators, auctioneers, bankers, realtors, government agencies, software companies, carbon credit programs, universities, easement personnel, livestock fencing companies, county taxation departments, crop insurance and crop hail insurance companies, custom farm operators, ag applicators (aerial, chemical, fertilizer), farm consulting firms, land managers and more.

We recommend and support an amendment to Section 1619 of the 2008 Farm Bill that allows the CLU data to be placed back into the public domain with the following attributes: Field Boundary, Acres, Tract Number, Farm Number, Field Number, Primary Classification of Land Unit Type, Administrating County and State Office.

CLU Data Uses

The following descriptions illustrate some of the ways agricultural producers and professionals in related industries use CLU data.

Farmers & Ranchers

Field borders can be downloaded into GPS units for information needed when working in specific fields, and is vital to precision farming techniques, field record keeping and accounting programs. CLU data is utilized in keeping records of fertilizer and chemical application by field and data can be sent electronically or printed for use by custom applicators, showing the correct field border and acres. CLU data can help farm workers locate the correct fields.

When buying, selling, and renting land, CLU data provides boundary and acreage to determine accurate soil surveys for comparison to like tracts to determine price. It can be useful when pricing land for net worth statements and providing documentation to lenders.

Auctioneers, Realtors, Rural Appraisers:

CLU data can help verify accurate acreage of land for sale. Specific information about the land is also useful. For example, most rural property for sale will be represented as total acres for sale. However, buyers are interested in knowing how many of those acres are productive or tillable. For appraisers, CLU data is critical for comparative sales.

Lenders

In addition to total acres to be purchased, lenders need to know details about the land such as land usage, forest, production, barren, etc, all of which is available in the CLU data. It is also a tool that lenders can use to verify information given to them by customers.

Chemical Companies

CLU data is used by chemical companies when working with applicators and operators to verify acres of fields sprayed with their products for contracts, rebates, etc.

Seed Companies

CLU data used to determine acreages can ensure ordering correct amounts of seeds. Downloading correct field borders and soils survey data to GIS is used to create variable rate seeding maps.

Crop Consultants

Visual maps and reports of correct fields and acreages can be produced by crop consultants to report their observations to the operators. Borders and other data sets downloaded into GIS are used to create maps for grid or zone soil testing, variable rate fortifying, chemical application, or planting.

Ag Applicators (aerial, chemical, fertilizer, and manure)

When taking orders from producers, cooperative and county elevators can produce a map based report that shows the correct field borders and acres to ensure the job is done correctly and efficiently. Field borders downloaded directly into GPS help applicators verify the correct field before starting the application. Data is also used to build variable rate application maps as needed. Liquid manure applicators can measure distance from the lagoon to the targeted fields.

Farm Equipment Companies

The field borders can be loaded into GPS equipment and displayed with acreage, allowing the operator verify that he is working in the correct field and providing information needed for precision farming operations. Once the operation is completed it can be transferred to the farmer's record keeping system.

Easement Personnel

CLU data is used to search for routes that have the best environmental and economical effect for the project. CLU data classifications of urban, cropland, forest, water body, barren, tundra, range, mined, other, and perennial snow and ice can save large amounts of personnel time, travel time and fuel use.

Custom Farm Operations

Data downloaded to GPS can help identify correct field locations, correct acreage for ordering product and help estimate time needed to complete jobs. Map based invoices can be created, displaying acres of the fields.

County Taxation Department

Identifying CLU data classification of urban, cropland, forest, water body, barren, tundra, range, mined, other, and perennial snow and ice is used for applying the correct tax code to the property. Total acreage owned is on record but having the field borders and classification allows assessments of uniform and fair taxes.

GIS/GPS Software and Hardware Companies

These companies have designed programs to utilize and display the field borders that save time and trips to the field location which creates cost savings. Procedures like variable rate application, planting, soil testing, etc., are made possible using this specialized software.

Universities

Mainly land grant colleges or agricultural trade schools utilize CLU data within their studies to teach students how to incorporate the information into GPS/GIS programs for various land management uses.

Well Drillers/Drain Tiles

CLU data is used to determine the correct field, acres for positioning the center pivot for irrigation and loading the field border into GIS/GPS for placing drain tile.

Livestock Fencing Companies

CLU data can be used to measure areas that will be fenced, saving a drive to the location to measure or estimate the field. Companies can prepare and print or email estimates within minute, without having to leave the office. Estimating and field work can be done in the evening (dark) or inclement weather allowing actual fencing work during good working conditions, which increasing productivity and saving time and fuel.

Land Managers (agricultural, fencing, and wildlife)

Land managers use CLU data to identify the different attributes of the land such as urban, cropland, forest, water body, barren, tundra, range, mined, other, and perennial snow and ice, enabling them to determine the best crops, trees, or game use for the acres. Data can be used with specific databases to keep records for clients and for government agencies.

Carbon Credit Users

Companies and programs working with farmers and ranchers use CLU data to identify specified field acres when processing carbon credit payments.

Multi Peril Crop Insurance (MPCI) Companies

MPCI companies are working to receive this information from the USDA for their clients through what is called the Common Information Management System (CIMS). However, even when it is available, this option will not work for the independent crop adjuster who does not use a company that provides a mapping solution. These independent adjusters need an independent source for field border data which they enter into a mapping system provided by a third party.

Crop Hail Insurance

Companies that may have future access to CLU data for MPCI use can only use it for that purpose. In order for a crop hail product to be used on a national basis, data from a public domain source will be needed. Crop hail policies include land descriptions that dictate which section is insured and the map shows the field borders. Maps showing field borders and acres are needed for adjusters to process a crop hail loss.

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Section 1619 of the 2008 Farm Bill – The Impact Upon the Farmer

Supporters of Section 1619 say that the farmer can still access his information by requesting a copy of his CLU data from the FSA office, then give his data to the service provider. In theory, this sounds like a simple solution, but in reality it doesn't work.

Prior to Section 1619, service providers had access to this information themselves. Now, the farmer needs to request and provide his CLU data to each service provider with whom he works. Following is a description of the process.

The Farmer and the FSA Office

Before Section 1619: Farmers did not need to request the information from the FSA office because the service providers could access the field boundaries and acres online themselves. In fact, most farmers are unaware of what this data is or how it is used because they are accustomed to the service providers having the data. Most of them will remain unaware of the implications until a service provider asks them for their data. Most farmers work with numerous service providers, all of whom may request the farmer to personally provide them with his data.

After Section 1619: Information requests that could previously be completed in just a few seconds online now require several hours of a farmer's time and include delays of one or two weeks or more. The farmer must first travel to the nearest FSA office and submit his request. He must remember to bring a blank CD with him, or he will need to return again. In theory, the FSA office can make a copy of the information in just a few minutes but that is not possible if other priorities or duties prevail. This is a manual process that is time-consuming and prone to errors. If a farmer makes any changes to the fields he is farming, a new CD must be requested.

The reality

Service providers have built efficiencies through the use of CLU data that have saved the farmer time and money. Farmers who request and provide CLU information to the service providers themselves are finding it to be a time-consuming, frustrating process. Many are choosing not to request and provide the CLU data, forcing the service providers to revert to prior methods of identifying fields. This makes their services more costly to the farmer.

Changes Needed in Section 1619 of the 2008 Farm Bill

Issue:

Restrictions upon the release of USDA geospatial data that were included in Section 1619 of the 2008 Farm Bill have resulted in a negative impact upon agricultural professionals, producers, landowners and others who utilize Common Land Unit (CLU) data (field borders) in their professions on a regular basis. A technical corrections bill or an amendment is needed to change Section 1619 to restore public access to CLU Data.

Background:

It is important to note that CLU data is separate from and does not contain compliance information, wetland, CRP, or ownership information. The CLU is geospatial data that contains the field boundary.

On February 15, 2008 the U.S. Court of Appeals overturned a district court ruling under the Freedom of Information Act (FOIA) and ordered the release of USDA compliance data. In response to this court action, Section 1619 was added to the 2008 Farm Bill during the conference committee process without public hearings. In addition to restricting access to compliance data, access to CLU data was restricted as well. The CLU data that is now restricted was available to the public for many years and its availability was questioned.

Implications:

Producers and professionals in many agriculture and land related industries have come to rely upon the availability of this data. It has been suggested that access to this information can be obtained simply by asking each individual producer for access to his information. It is not feasible to ask producers to do this because of the amount of time and effort that is involved for a producer to request and receive his data and distribute copies to each vendor or service provider who needs it. Most FSA offices will not honor signed release forms nor do they have the personnel and technical resources to handle these requests in a timely manner.

This data was available for download from the NRCS Gateway since 2004 until the restrictions of Section 1619 were implemented. These restrictions translate into lost productivity and represent a step backwards for modern agriculture practices. Businesses have been launched and products developed to provide more efficient, effective and timely services for the farmer at a lower cost.

Next steps:

We want to increase awareness of the negative impact of Section 1619. Prior to these restrictions, CLU data was available for download with field boundary and acres. At a minimum, we are asking for restoration of public access to the field boundary and acres that has been available since 2004. Better services can be provided to the producer if the following attributes are also included: Tract Number, Farm Number, Field Number, Primary Classification of Land Unit Type, and Administrating County and State Office. Restoring access to CLU data will allow the American agriculture industry to continue to provide valuable services to the farmer.