



Billing Code 3410-02P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS-SC-19-0071; SC19-990-5]

Privacy Act of 1974: New System of Records

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Agricultural Marketing Service (AMS) proposes to add a system of records to its inventory of records systems. The system of records will cover information collected under the U.S. Domestic Hemp Production Program in AMS. This notice is necessary to meet the Privacy Act requirement that a Federal Register notice describing the existence and character of record systems to be maintained by the agency be published.

DATES: This system of records notice is applicable upon its publication in this issue of the Federal Register, with the exception of the new routine uses, which are effective [INSERT DATE 30 DAYS AFTER FEDERAL REGISTER PUBLICATION DATE]. AMS will accept comments until [Insert date 30 days after publication in the Federal Register] on the routine uses described below.

ADDRESSES: Interested persons are invited to submit written comments. Comments should be submitted via the Federal eRulemaking portal at www.regulations.gov. Comments may also be filed with the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; or Fax: (202) 720-8938. All comments received must include the agency name and docket

number for this notice. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact William Richmond, Specialty Crops Program, AMS, USDA; 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250-0237; Telephone: (202) 720-9921; Email:

william.richmond@usda.gov. For Privacy Act questions concerning this system of records notice, please contact the FOIA and Privacy Act Officer, 1400 Independence Ave. SW, Washington, D.C. 20250; Telephone: (202) 205-0288; Email: ams.foia@usda.gov. For USDA Privacy Act questions, please contact the USDA Chief Privacy Officer, Information Security Center, Office of Chief Information Officer, USDA, Jamie L. Whitten Building, 1400 Independence Ave., SW, Washington, D.C. 20250; Email: USDAPrivacy@ocio.usda.gov.

SUPPLEMENTARY INFORMATION: The Agriculture Improvement Act of 2018 (the Farm Bill) mandates USDA to establish a U.S. Domestic Hemp Production Program (DHPP). The new program will be administered by the Agricultural Marketing Service (AMS), Specialty Crops Program (SCP), Marketing Order and Agreement Division (MOAD). The new program will review plans submitted by States and Tribal Nations to regulate the production of hemp within their jurisdictions and approve those plans that meet requirements. These plans must include protocols for how producers will submit information on the land where hemp is produced, testing procedures for the plants, and the disposition of plants that do not meet requirements. In States and Tribal Nations where the State or Tribal Nation does not have an approved plan (and that does not prohibit the production of hemp), the program will issue licenses to individuals and businesses who wish to produce and will also oversee program participant compliance.

In support of these requirements, AMS is establishing a new system of records for the DHPP under the Privacy Act (5 U.S.C. 552a). As part of this program, the Farm Bill requires USDA to collect data from States and Tribal Nations regarding hemp growers under their jurisdiction as well as licensing information on growers operating under the USDA hemp production plan. Additionally, the Farm Bill requires USDA to share the collected information with the Attorney General and share real-time information with Federal, State, local or Tribal law enforcement.

This system will provide a secure public facing interface where applicants (both individuals and businesses) can submit their licensing information. This system will also provide a secure interface where States and Tribes may submit their plans for USDA approval, their licensee information, land identification information, monthly reports on the disposal of non-conforming plants and materials, and annual reports.

This system will interface with the USDA Farm Service Agency to enter and receive information from licensees which will include: field acreage, greenhouse or indoor square footage of hemp planted; street address; geospatial location or other comparable identification method which specifies where the hemp will be produced; and legal description of the land.

Additionally, this system will provide real time reporting of relevant data to other internal and external agencies (Farm Service Agency, Department of Justice (Drug Enforcement Administration) and State and Tribal law enforcement).

AMS will use the information obtained only for the purposes of administering the laws and regulations of the DHPP, including using this data for regulatory enforcement actions brought in USDA administrative proceedings and/or Federal courts and preparing and releasing summary and statistical reports on agricultural commodities and related products. Any further

dissemination not expressly identified here will not occur without the express written permission from the DHPP. The information will be reviewed only by authorized USDA personnel or others as identified in this document on a rolling and a need-to-know basis and will be kept secure. USDA will maintain such confidential information as required under the specific statutes and government policies relating to confidential information, as laid out below.

Establishing a new DHPP system of records under the Privacy Act (5 U.S.C. 552a) is required by law. The privacy rules for collecting and handling individuals' information, and for securely managing records, are followed.

A report on the new system of records, required by 5 U.S.C. 552a(r), as implemented by Office of Management and Budget Circular A-108, was sent to the Chairman, Committee on Homeland Security and Governmental Affairs, United States Senate; the Chairman, Committee on Oversight and Government Reform, House of Representatives; and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Done in Washington, DC, this 13th day of January, 2020.

Bruce Summers,

Administrator, Agricultural Marketing Service.

SYSTEM NAME AND NUMBER:

Domestic Hemp Production Program, USDA/AMS-07

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records will be maintained at the offices of the USDA, Agricultural Marketing Service, 1400 Independence Avenue SW, Washington, DC 20250-0244.

SYSTEM MANAGER:

A System Manager will manage the Domestic Hemp Production Program system. For general information, you may contact the Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202)720-8938,

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Agriculture Improvement Act of 2018 (Farm Bill) and 7 CFR Part 990.

PURPOSE:

The purpose of this system is to collect data from States and Tribal Nations regarding hemp producers licensed under their USDA-approved plan within their jurisdiction, as well as information on producers operating under the USDA plan. Additionally, the Farm Bill requires

USDA to share the collected information and data with Federal, State, Tribal, and local law enforcement.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include: (1) Producers and business entity applicants for hemp production licenses under a USDA-approved State or Tribal plan, or under the USDA hemp production plan; (2) licensed producers or business entities under a USDA-approved State or Tribal plan, or under the USDA hemp production plan; (3) individuals tasked with oversight and administration of the USDA Domestic Hemp Production Program, including: USDA employees, contractors, or other entities working on behalf of the USDA; (4) individuals who are regulated by the USDA Domestic Hemp Production Program who may be investigated for possible violations, including licensees, samplers, inspectors, and laboratory technicians, including their agents and appointees, and other non-Federal employees; and (5) any other individuals involved in a review or investigation as an alleged violator.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system will provide a secure public facing interface where applicants, States and Tribes may submit information to USDA. This system will interface with the USDA FSA to enter and receive information from. Additionally, this system will provide real time reporting of relevant data to other internal and external agencies pertaining to an alleged violation of the Domestic Hemp Production Program, including: name, address information (street or email address), personal identification numbers (employer identification number [EIN], system-generated license number), criminal history, and case file information for producers under a

State, Tribal plan, or the USDA production plan. The case file contains evidence gathered in the course of the review or investigations. The system will contain the following records:

- Records relating to hemp production license applications or renewals:
 - State and Tribal Nation production plans;
 - Applicant, business entity or licensee name;
 - Names and titles of a business entity's key participants (if applicable);
 - Mailing or principal business address;
 - Email address (if applicable);
 - Phone number;
 - Employer Identification Number (if applicable);
 - Criminal history report;
 - Name of USDA-approved plan under which licensed or applying for license;
 - License or authorization number (if applicable);
 - License or authorization status;
 - Date license was issued and will expire;
 - Name of legal owner of land for hemp production; and
 - Signature or affidavit of applicant or licensee (USDA plan only).

- Records relating to compliance including, but not limited to:
 - Laboratory hemp lot test reports, including:
 - Name of licensee or authorized person;
 - Licensee or authorized person address;
 - Name of USDA-approved plan under which licensed;
 - License number or authorization identifier;

- License or authorization type (producer or business entity);
- Lot number;
- Date and time of test;
- Percentage delta-9 tetrahydrocannabinol concentration; and
- Test result (retest, pass, fail).
- Hemp lot disposal reports, including:
 - Licensee or authorized person name;
 - License or authorization number;
 - Licensee or authorized person address;
 - Name of USDA-approved plan under which licensed;
 - Lot number;
 - Lot location (Greenhouse, indoor or field production);
 - Geospatial location or other valid land descriptor;
 - Date of completion of disposal;
 - Total acreage disposed;
 - Name of Disposition Agent;
 - Name of Disposition Organization;
 - Signature of Licensee or authorized person; and
 - Signature of Disposition Agent.
- Licensee annual reports, including:
 - Licensee or authorized person name;
 - License or authorization number;
 - Licensee or authorized person address;

- Name of USDA-approved plan under which licensed;
- Lot number (if applicable);
- Lot location (if applicable);
- Geospatial location or other valid land descriptor (if applicable);
- Total acreage planted;
- Total acreage disposed; and
- Total acreage harvested.
- Records related to Enforcement:
 - Name of Complainant;
 - Mailing address;
 - Email address (if applicable);
 - Phone number; and
 - Summary of Complaint.

RECORD SOURCE CATEGORIES:

These records contain information obtained from: the individual or entity who is the subject of these records including a complainant or subject of an audit; USDA Farm Service Agency; U.S. Domestic Hemp Production Program; States and Tribal governments; and laboratories authorized to test hemp.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, records maintained in the system may be disclosed outside USDA, as follows, to the extent that such disclosures are compatible with the purposes for which the information was collected:

(1) To the Department of Justice when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity where the Department of Justice has agreed to represent the employee; (c) any employee of the agency in his or her individual capacity where the agency or the Department of Justice has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

(2) To a court or adjudicative body in a proceeding when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation.

(3) To law enforcement in real time as required by Section 297C(d) of the Farm Bill. Information to be shared via this routine use will include contact information for each hemp producer, a legal description of the land on which hemp is grown, and the license status of each producer.

(4) To law enforcement: When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or Tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity.

(5) To a Congressional office from the record of an individual in response to any inquiry from that Congressional office made at the written request of the individual to whom the record pertains.

(6) To the National Archives and Records Administration or to the General Services Administration for records management activities conducted under 44 U.S.C. 2904 and 2906.

(7) To agency contractors, grantees, experts, or consultants who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity.

(8) To a Federal, State, local or Tribal agency maintaining civil, criminal, or other relevant enforcement records, or other pertinent records, or to another public authority or professional organization, if necessary, to obtain information relevant to an investigation concerning the issuance, retention or revocation of a license.

(9) To a Federal, State, local, or Tribal or other public authority the fact that this system of records contains information relevant to the issuance, retention or revocation of a license. The

other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

(10) To appropriate agencies, entities, and persons when: (a) USDA suspects or has confirmed that there has been a breach of the system of records; (b) USDA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, USDA (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(11) To another Federal agency or Federal entity, when the USDA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in paper and electronic format. In the beginning, the information will be stored in hard copy until the electronic system can securely store all the records.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by individual or business name, individual or business address, or other unique identifiers.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records will be retained indefinitely until appropriate disposition authority is obtained, and records will then be disposed of in accordance with the authority granted.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All records containing personal information are maintained in secured file cabinets or in restricted areas, in which access is limited to authorized personnel. Access to computerized data is password-protected and under the responsibility of the system manager and subordinates. The database administrator has the ability to review audit trails, thereby permitting regular ad hoc monitoring of computer usage.

RECORDS ACCESS PROCEDURES:

Any individual may request information concerning himself/herself from the System Manager. Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may submit a request in writing to the Chief Information Officer, Department of Agriculture, Agricultural Marketing Service, Mail Stop 0244, Room 1752-S, 1400 Independence Avenue SW, Washington, DC 20250-0244.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform to the Privacy Act regulations set forth in 7 CFR part 1, subpart G. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no

specific form is required, you may obtain more information for this purpose from the AMS FOIA and Privacy Act Officer, Telephone: (202) 205-0288; Email: ams.foia@usda.gov. In addition, you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information

about you;

- Specify when you believe the record would have been created; and
- Provide any other information that will help the FOIA staff determine which AMS

component agency may have responsive records.

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his or her agreement for you to access his or her records.

Without complete information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend information maintained in the system should direct their requests to the address indicated in the “Record Access” section, above. An individual who is the subject of a record in this system may seek to amend their records. A determination whether a record may be amended will be made at the time a request is received.

NOTIFICATION PROCEDURES

Any individual may request general information regarding this system of records or information as to whether the system contains records pertaining to him/her from the System Manager. All inquiries pertaining to this system should be in writing and submitted to the address listed below in the Records Access Procedures section, must name the system of records as set forth in the system notice, and must contain the individual's name, telephone number, address, and email address.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

N/A

HISTORY:

N/A.

[FR Doc. 2020-00658 Filed: 1/15/2020 8:45 am; Publication Date: 1/16/2020]