United States Department of Agriculture
Office of Inspector General

USDA Monitoring of Highly Erodible Land and Wetland Conservation Violations

Audit Report 50601-0005-31
June 2016

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What Were OIG's Objectives

Our primary objective was to evaluate the processes used by NRCS and the Farm Service Agency to identify and monitor the proper disposition of violations of compliance related to HEL and WC provisions of the Food Security Act of 1985.

What OIG Reviewed

The scope of our work covered NRCS' HEL and WC compliance review activities in 2012-2015. We conducted field work at the agency's national office, four State offices, and 12 local offices, and visited 60 tracts subject to review. Audit work was conducted from April 2015 through February 2016.

What OIG Recommends

NRCS needs to clarify the level of treatment required for control of all types of gully erosion and conduct a review of State-issued guidance for controlling gully erosion to ensure it is adequate and consistent. In addition, NRCS needs to clarify its guidance to address instances where wetland imagery does not match conditions noted in the field.

OIG reviewed NRCS' controls to ensure compliance with requirements for Highly Erodible Land and Wetland Conservation provisions

What OIG Found

The Natural Resources Conservation Service (NRCS) has not supplied its State offices with guidance for effective gully erosion control, and has not reviewed State-level guidance to evaluate their sufficiency. NRCS relies on State and local offices to facilitate compliance reviews of tracts subject to Highly Erodible Land (HEL) conservation provisions in the Food Security Act of 1985. However, these offices developed inadequate guidance for reviews and for evaluating and correcting gully erosion. Conflicting guidance caused inconsistent compliance determinations, and unclear national policy caused incorrect interpretation of compliance rules. As a result, producers do not know the level of treatment required for controlling all types of gully erosion and could receive inconsistent compliance evaluations.

Also, NRCS State and field staff use inconsistent approaches when performing the Wetland Conservation (WC) portion of the compliance reviews and had differing opinions about NRCS' response when the field conditions of tracts do not match the offsite resources, including historical imagery and the wetland inventory maps.

When developing the sample for the 2015 compliance reviews, NRCS used a flawed universe of tracts which inadvertently omitted tracts from entire States, had inaccurate and invalid tract data, and overlooked tracts located in two-digit administrative county codes. NRCS cannot determine an accurate rate of compliance for 2015 since it did not generate a representative sample.

NRCS concurred with our findings and recommendations, and we accepted management decision on all six of our recommendations.

United States Department of Agriculture
Office of Inspector General
Washington, D.C. 20250

DATE: June 21, 2016

AUDIT NUMBER: 50601-0005-31

TO: Jason Weller
Chief
Natural Resources Conservation Service
ATTN: Leon Brooks

Val Dolcini
Administrator
Farm Service Agency
ATTN: Perry Thompson

FROM: Gil H. Harden
Assistant Inspector General for Audit

SUBJECT: USDA Monitoring of Highly Erodible Land and Wetland Conservation Violations

This report presents the results of the subject audit. Your written response, dated May 20, 2016, is included in its entirety at the end of the report. Excerpts from your response and the Office of Inspector General's position are incorporated in the relevant sections of the report. Based on your written response, we are accepting management decision for all audit recommendations in the report, and no further response to this office is necessary.

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions. This report contains publically available information and will be posted in its entirety to our website (http://www.usda.gov/oig) in the near future.

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Background and Objectives

Background

The Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS), Farm Service Agency (FSA), and Risk Management Agency (RMA) have joint responsibility for carrying out the Highly Erodible Land (HEL) and Wetland Conservation (WC) provisions of the Food Security Act of 1985 (the Act), as amended.[1] These provisions are designed to reduce soil loss on erosion-prone lands and to protect wetlands because of the multiple benefits they provide to the environment and society. HEL and WC provisions apply to land that is owned or farmed by persons voluntarily participating in USDA programs and is also considered either highly erodible or a wetland tract. Highly erodible land is defined as cropland, hayland, or pasture that can erode at excessive rates.[2] A wetland is defined as having wetland vegetation, hydric soils, and wetland hydrology.[3]

FSA establishes tract and field boundaries on producers' farms. FSA defines a tract of land as a unit of contiguous land that is both under one ownership and operated as a farm or part of a farm. A farm can include multiple tracts. A field is the smallest unit of land that has a permanent, contiguous boundary, common land cover and land management, common owner, and common producer association. A tract can include multiple fields.

Many of the programs administered by FSA, NRCS, and RMA require participants (such as producers and affiliated individuals or entities) to comply with the Act's provisions.[4] To be eligible for USDA operating and farm storage loans, insurance subsidies, conservation program payments, and other financial assistance (herein referred to as "USDA payments"), the Act requires those who farm highly erodible land to use approved conservation systems, and not convert wetlands for the production of agricultural commodities. Prior to receiving USDA payments, producers must self-certify that they are in full compliance with the provisions of the Act.[5] NRCS has the responsibility, in part, to determine whether producers are complying with these provisions, and it conducts annual compliance reviews to verify compliance.

For NRCS, a compliance review is a technical review of a tract of land to determine if a producer is actively applying an approved conservation plan or system, and provide information to FSA and conservation districts about progress or problems with a producer's implementation of that system. These reviews determine if the tracts conform to the Act's HEL and WC provisions. If the conservation practices on reviewed tracts are determined to have inadequately addressed the

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[1] Public Law 99-198, "Food Security Act of 1985."
[2] USDA FSA & NRCS, *Highly Erodible Land Conservation and Wetland Conservation Compliance,* Fact Sheet (Apr. 2012).
[3] USDA-NRCS, *Wetlands* (Mar. 16, 2016), http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/water/wetlands.
[4] Under the "Agricultural Act of 2014" (2014 Farm Bill), producers that receive Federal Crop Insurance premium subsidies from RMA are no longer exempt from HEL and WC provisions. Producers that received RMA premium subsidies were originally required to comply with HEL and WC provisions in the Act but had been exempt from 1996 through 2014 through subsequent legislation.
[5] Producers use Form AD-1026, "Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification," to certify compliance with HEL and WC provisions of the Act.

HEL provisions or a violation of wetland provisions is identified, the producers associated with the tracts may be ineligible for certain USDA payments.

During a compliance review, NRCS evaluates whether adequate conservation treatments are in place for the protection of highly erodible land. If producers farm on highly erodible land, they are required to protect against soil erosion caused by wind or water. Soil erosion from water can come in the form of sheet and rill erosion, or gully erosion. Sheet erosion is the detachment of soil particles by raindrop impact and the removal of thin layers of soil from the land surface by the action of rainfall and runoff. Rill erosion is the formation of small, generally parallel channels formed by runoff water. Rills usually do not re-occur in the same place. There are two types of gully erosion: ephemeral and classical. An ephemeral gully is a shallow channel cut by concentrated runoff where soil loosened by mechanical operations is removed, generally between tillage operations.[6] In general, an ephemeral gully can be crossed with farm equipment, and eliminated with tillage. If an ephemeral gully is left untreated, it can develop into a classical gully. A classical gully is a channel or miniature valley cut into the earth by concentrated runoff, but water generally flows only during and immediately after rains or during the snow melt period.[7] A classical gully usually has a larger width and depth than ephemeral gullies which does not allow it to be crossed with farm equipment. Soil loss was identified by the Act as an important issue facing agriculture, and the country already loses almost 1 billion tons of topsoil each year due to sheet and rill erosion. Research shows that gully erosion is a major contributor to soil loss on American farms (possibly as much as 40 percent or more)[8] and therefore merits close monitoring and control.

If producers participate in USDA programs, they are also required to follow WC provisions of the Act. The Act's WC provisions are meant to discourage producers from converting wetlands to farmable land. Producers may be ineligible for certain USDA payments if they are found converting a wetland for agricultural production. As USDA's leading technical agency for establishing regulations, policies, and procedures for making wetland determinations, NRCS relies, in part, on compliance reviews to identify any wetland violations so corrective actions can be considered.[9]

All NRCS employees responsible for conducting compliance reviews are required to have adequate knowledge, skills, and abilities to assess the status of both HEL and WC compliance. The National Food Security Act Manual (NFSAM) prescribes the process for performing a compliance review.

The NRCS national office selects a random sample of tracts for compliance reviews. Additional tracts are selected for compliance reviews based on referrals from other USDA agencies, whistleblower complaints, potential violations observed by NRCS employees, and tracts that maintained eligibility for review due to prior year variances. In addition, at least once every

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[6] USDA NRCS, *Estimating Soil Loss From Gully Erosion,* Section I-D-3 (Jun. 2002).
[7] Ibid.
[8] USDA-ARS, *Ephemeral Gully Channel Width and Erosion Simulation Technology* (Jan. 26, 2016). http://www.ars.usda.gov/research/publications/publications.htm?seq_no_115=310654.
[9] If producers want to receive USDA payments, they can correct wetland violations by following a plan for restoration, mitigation, or replacement of the converted wetland.

3 years, compliance reviews are required on tracts owned or operated by USDA employees who receive USDA payments.

In order to select tracts for compliance reviews, NRCS uses data supplied by FSA. NRCS makes an annual request to FSA for a universe of tracts subject to HEL and WC provisions, from which it selects a sample for review. FSA generates a dataset of tracts that meet the following criteria: have highly erodible land or a wetland area; produce an agricultural commodity; and are owned or operated by a producer who receives a USDA payment. NRCS randomly selects about 1 percent of the tracts in this dataset for its annual review of compliance with HEL and WC provisions.

On March 2, 2016, we issued an interim report identifying problems with the universe generated by FSA for use in the calendar years 2012-2015 HEL and WC compliance reviews.[10] NRCS requested a universe of data from FSA that only included records from FSA's Direct and Counter Cyclical Payment Program (DCP). This request did not account for producers participating in other FSA programs or any NRCS program subject to the HEL and WC provisions. Despite the repeal of DCP in the 2014 Farm Bill, NRCS still requested the use of DCP data to produce the dataset (universe) for the 2015 random compliance sample.[11] FSA then used data from the National Payment Service to generate the universe; however, this dataset omitted data from 10 States and produced duplicate and invalid records. As a result, not all producers subject to the random compliance reviews were included in the data universe. Because of this fact, NRCS cannot effectively verify that the results of its random sample reviews accurately reflect producer compliance with HEL and WC provisions.

In this interim report, we recommended that NRCS, FSA, and RMA draft and implement a Memorandum of Understanding which outlines the responsibilities of each agency in generating a timely and accurate universe of tracts subject to HEL and WC provisions. We also recommended that these agencies establish an interagency working group comprised of program staff to define the universe and develop and implement an effective methodology for the 2016 compliance reviews. We agreed with NRCS, FSA, and RMA's proposed corrective actions on both recommendations, as described in our interim report.[12]

Objectives

Our primary objective was to evaluate the processes used by NRCS and FSA to identify and monitor the proper disposition of violations of compliance related to HEL and WC provisions of the Food Security Act of 1985. Specifically, we evaluated the internal controls to identify violators of HEL and WC provisions and ensure that appropriate follow-up and corrective

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[10] OIG Report 50601-0005-31(1), *USDA Monitoring of Highly Erodible Land and Wetland Conservation Violations— – Interim Report,* March 2, 2016. We define "interim report" as a stand-alone report of issue(s) that needs the immediate attention of agency management prior to the completion of the engagement.

[11] Review of the 2015 compliance sample was performed by NRCS in calendar year 2015; however, the sample was selected from fiscal year 2014 data. Similarly, each calendar year's compliance review sample is selected from the prior fiscal year data.

[12] OIG Report 50601-0005-31(1), *USDA Monitoring of Highly Erodible Land and Wetland Conservation Violations— – Interim Report,* March 2, 2016.

actions were taken. In addition, we evaluated the internal controls in place to ensure identified violators were denied benefits in certain USDA programs.

While we identified several issues with the implementation of HEL and WC provisions as noted in this report, we also observed what appears to be great improvement in minimizing erosion on HEL fields.[13] Generally, we found necessary conservation practices were applied as required and did not identify significant issues with the disposition of violations. FSA officials are responsible for implementing procedures to deny benefits to producers NRCS determined were noncompliant. We did not identify significant issues with FSA's process in this area.

[13] NRCS estimates soil erosion on cropland decreased by 44 percent between 1982 and 2012. *2012 National Resources Inventory Summary Report,* August 2015.

Section 1: Improvements Needed in the Performance of HEL and WC Compliance Reviews

Finding 1: NRCS Compliance Reviews of HEL Tracts Result in Inconsistent Compliance Determinations

NRCS State offices have developed inadequate guidance for consistently applying standards in conducting compliance and quality control reviews specific to the Act's HEL conservation provisions and specifically for evaluating and correcting gully erosion. This occurred because NRCS' national office has not issued adequate guidance to the States for compliance and quality control reviews, particularly for treatment and control of gully erosion. Also, the national office has not reviewed State-issued guidance to evaluate its sufficiency. As a result, NRCS has not supplied producers with adequate instructions for controlling gully erosion, and producers could receive inconsistent treatment regarding noncompliance determinations. We found specific examples where producers implemented similar conservation practices yet NRCS made differing compliance determinations. Consequently, USDA may pay benefits to producers who have applied inadequate measures to control gullies. In the long term, the loss of topsoil from gully erosion may also impair the nation's ability to produce agricultural food and fiber, and may contribute to diminished water quality.

The National Food Security Act manual (NFSAM) requires producers to follow an acceptable conservation plan to ensure compliance with HEL conservation provisions. NFSAM states a conservation system shall include all treatments and measures needed to meet HEL conservation requirements, including treatment required: to result in a substantial reduction in erosion; to prohibit a substantial increase in erosion; and for the control of sheet and rill erosion, wind erosion, and ephemeral gully erosion.[14] However, NFSAM guidance related to gully erosion needs clarification as it only mentions ephemeral gully erosion without mentioning classical gully erosion, both of which are considered to be gully erosion. The manual also provides specific guidance as to acceptable soil losses from both wind and water erosion but only states that treatment is required for ephemeral gully erosion. In addition, NFSAM requires all work for HEL and WC provisions to be incorporated in the State Quality Control Review, which includes reviewing compliance reviews previously completed, including variances and exemptions granted.[15]

NFSAM is the only guidance issued by the NRCS national office for measuring and correcting gully erosion to achieve compliance with HEL conservation provisions. Although NRCS issued the NFSAM guidance nationally, it relies on its State offices to develop guidance specific to each State. However, through our work, we found that not all States have issued definitive guidance on the level of treatment necessary for controlling gully erosion, either ephemeral or classical. We also found that the unclear guidance in NFSAM caused inconsistent compliance determinations. Finally, we found that the States have inconsistent quality control processes to ensure adequate compliance reviews within their respective States.

[14] NFSAM, Fifth Edition, Part 512, Sec 512.0 (C), November 2010.
[15] NFSAM, Fifth Edition, Part 519, Sec 519.2 (A)(v), November 2010.

Conflicting State-level Guidance Caused Inconsistent Compliance Determinations

We found many examples during field work (through interviews, research, and site visits) where NRCS' national guidance produced inconsistent results for the treatment of ephemeral gullies in the States within our sample, and resulted in inconsistent noncompliance determinations.

The guidance issued by NRCS State offices for treatment and control of ephemeral gully erosion was inconsistent and may result in differing compliance determinations. The Nebraska NRCS State office developed moderately detailed guidance. For example, Nebraska has notices available to producers that define ephemeral gully erosion, and explain how to identify, predict, plan for, and control ephemeral gully erosion.

The Missouri State office issued rules for ephemeral gully erosion treatment and control that were not consistent with the other States in our review. For example, Missouri guidance considers ephemeral gully erosion to be a compliance issue only when the total acreage of that erosion drainage area is more than 1.5 acres, or more than 3 percent of the field. No other State office in our sample has this limitation in place.

Neither Kansas nor South Dakota had issued any guidance or best practices on ephemeral gully erosion treatment and control.

Differences in Guidance between States

- Missouri guidance requires the compliance reviewer to take into account the total amount of affected acreage and soil loss before determining compliance. At one site we found ephemeral gully erosion, but the NRCS personnel with us stated it might not be considered noncompliant because of the State's rule regarding acreage and soil loss (see Figure 1). However, we encountered a similar condition on another site in Kansas. Since Kansas officials did not issue guidance regarding the total amount of affected acreage, these officials told us they would have determined the producer to be out of compliance (see Figure 2).

Figure 1: The ephemeral gully erosion found at this site may be considered compliant according to Missouri's guidance.

Figure 2: According to Kansas officials, the ephemeral gully erosion found at this site would be considered out of compliance.

- Missouri guidance also includes a rule that calculates distances and lengths of terraces and gullies to determine compliance.[16] No other State in our sample uses this technique.

- States weigh the effects of soil erosion differently. In Nebraska, NRCS personnel said that if the displaced soil stays on the producer's field, it would not be considered a compliance issue (see Figure 3). In Missouri, NRCS personnel said that displaced soil is considered a compliance issue, even if the soil does not leave the field (see Figure 4).

[16] Where ephemeral gully erosion is present, the producer would still be considered compliant if the distance below the terrace (measured from the terrace that is directly above the area where the ephemeral gully erosion is noted to the lowest extent of the ephemeral gully) is equal to or less than twice the terrace interval.

Figure 3: According to Nebraska officials, the soil erosion on this producer's tract would be considered compliant since the soil is not leaving the field.

Figure 4: According to Missouri State officials, if soil is being displaced, the producer would be considered noncompliant, regardless of whether the soil stays on the producer's field.

Differences in Application of Rules by Officials within the same State

- Missouri State officials consider producers to have violated HEL provisions if measures are not taken to control the occurrence of soil displacement. These officials stated that any soil displacement on the field needs to be controlled. However, we did not encounter the same philosophy from all field officials who determine compliance in Missouri. One area official told us that soil displacement only becomes a compliance issue if the soil leaves the field.

- Missouri's guidance allows producers to remain in compliance despite ephemeral gully erosion as long as certain other criteria are met, including terrace distance,[17] field size, no-till practices, and crop rotation. However, we found instances where producers in different counties received different compliance determinations despite using the same conservation treatment. In one county, the producer was determined to be "compliant," despite the presence of an ephemeral gully on this field, because the producer's conservation plan met the criteria in Missouri's guidance (see Figure 5). However, a producer in another county was determined "noncompliant,"

[17] Terraces reduce soil erosion by reducing slope length. Reducing the distance between terraces reduces soil erosion. USDA NRCS, *Conservation Practice Standard— – Terrace,* Code 600– – 1 (Apr. 2010).

because the approved conservation plan, which used the same conservation practices as the first producer's, was deemed ineffective due to the presence of a gully (see Figure 6).

Figure 5: This producer used an approved conservation plan, but this gully still formed on the tract. However, in this county, NRCS found this producer in compliance because of the approved conservation plan.

Figure 6: This producer also used an approved conservation plan with the same conservation practice as the producer in Figure 5. However, in this county, NRCS found "noncompliance" due to the gully that formed on the tract.

All Types of Erosion are not Considered Compliance Issues

Severe gully erosion, where the flow channel is well defined and permanent, is categorized as classical gully erosion. Gullies are considered classical when the gully is too big for farming equipment to drive across (see Figure 7).[18] Despite the impact to producers and the agency's conservation mission, the officials in the State offices we visited do not consider classical gullies when making compliance determinations, and do not supply guidance for controlling or correcting classical gullies. Instead, these NRCS State officials only consider ephemeral gully erosion as a compliance issue (see Figure 8).

[18] National Agronomy Manual, Fourth Edition, Part 501, Subpart 501B, 501.10, February 2011.

Figure 7: This classical gully was not considered a compliance issue when NRCS performed its compliance review.

Figure 8: This ephemeral gully was found on the same producer's tract as Figure 7 and made the producer noncompliant.

NRCS officials provided various reasons for not considering classical gully erosion as a compliance issue. One State official told us that these areas are not considered farmland according to FSA maps and therefore the producer would not have to "control" this part of the field. Officials stated they cannot require the producer to control erosion on areas of the field that are not within the boundaries of the farm. An area official told us that the Food Security Act only applies to land that is producing an agricultural commodity. They stated since an agricultural commodity is not being produced in areas with classical gullies, these areas are not subject to HEL compliance.

However, NRCS national officials said classical gullies should be controlled if at all possible and producers with actively eroding classical gullies should be considered out of compliance. These officials told us erosion needs to be controlled, regardless of what category the erosion falls in, and conceded that the agency does not have extensive guidance or policies on gully erosion.

NFSAM Guidance Allowed Incorrect Interpretation and Application of Compliance Rules

During our site visits, we found instances where the compliance review was incomplete or incorrect. In one county the compliance reviewers stopped their field review after identifying multiple violations on a section of the tract and in another county the compliance reviewer did not perform a site visit for all sampled USDA employee tracts and incorrectly determined compliance for one employee tract.

NRCS Compliance Reviews Did Not Always Cover the Entire Tract

Some NRCS compliance reviews did not cover the entire tract of land in question. For example, in one county, we found two instances where the compliance reviewer did not perform a review of the entire tract, even though the reviewer had identified multiple

compliance violations on the sections of the fields reviewed. Once the reviewer had identified some compliance violations in individual fields and determined the field was noncompliant, the reviewer moved to the next field, without completing a review of all of the areas in the field susceptible to gully erosion. When we performed our site visit, we found gullies in sections of the field that were not reviewed by NRCS. While this did not affect the original determination concerning that tract (it had been deemed noncompliant), this omission might cause NRCS to miss possible violations when the follow-up review is performed. In the year following a violation, NRCS has the option to only determine whether the reason for the violation has been alleviated or corrected; reviewers typically do not check other areas for additional violations.

We determined the NFSAM guidance needed to clarify the requirement that an "entire tract" needs to be reviewed for HEL and WC compliance provisions. A compliance reviewer could perform a cursory site visit of some areas of each field, as noted above, and claim the "entire tract" was reviewed. NRCS claims that in some cases reviewing the "entire tract" on the ground is requiring too much given their current resources and the size of some tracts. We discussed with NRCS that reviewing a representative area of the tract might be a solution and NRCS agreed. We believe that unless the reviewer makes an effort to check all areas of a tract susceptible to gully erosion, all compliance issues may not be uncovered and follow-up reviews may be incomplete.

NRCS Compliance Reviews Did Not Always Include a Site Visit for Tracts Owned by USDA Employees

NFSAM states that compliance reviews must include site visits to be considered complete. It also requires compliance reviews of tracts owned by USDA employees "at least once every three years."[19] However, during our site visits in one State, we found situations where the local NRCS field office simply performed an office review of a USDA employee's tract, instead of completing both an office review and a site visit. The employee's tract had undergone a full compliance review in 2014 (which included an office review and site visit), pursuant to the rule for USDA employees, with no compliance issues identified. That same employee's tract was selected for the 2015 employee compliance review when it was discovered additional tracts were needed.[20] NRCS only performed an office review. However, when we went to the site, we found gullies which would have been considered a compliance issue, according to the official who accompanied us.

The field office believed that since a full review had been completed in 2014, this fulfilled NFSAM's requirement for USDA employees, and therefore an expedited review could be completed in 2015. However, we believe that a site visit should have also been performed on this tract, as the manual states that reviews of USDA employee-owned tracts should occur "at least once every three years," not "once every three years."[21]

[19] NFSAM, Fifth Edition, Part 518, Subpart A, Sec 518.1 (A)(1)(viii), November 2010.
[20] Some employees who were on the list to be reviewed in 2015 had left employment with USDA, so replacement employee tracts were selected.
[21] NFSAM, Fifth Edition, Part 518, Subpart A, Sec 518.1 (A)(1)(viii), November 2010.

NRCS needs to clarify the rules for compliance reviews specific to USDA employees to ensure fair and consistent treatment of all producers and ensure full reviews are performed when they are selected.

Quality Control Systems for Conducting Compliance Reviews Are Inconsistent

The guidance issued by the NRCS national office to help States develop quality control systems is unclear, and those systems developed by the States would not consistently and effectively validate compliance determinations. We checked the quality control systems used by the States in our sample for ensuring consistent and complete compliance review determinations. We found vast differences in the extent and quality of the States' systems of quality control reviews. However, we found individual States can have different systems of quality control and still technically be compliant with the manual.

NRCS has instructed the State offices to implement a system of quality controls so situations such as those previously mentioned in this report can be detected and corrected.[22] Missouri's quality control system requires that the quality control review include a site visit shortly after the original compliance review, so the quality control reviewer can see the field conditions as the original compliance reviewer saw them. This allows the quality control reviewer to assess whether an accurate determination of compliance or noncompliance was made by the original reviewer.

Other States in our sample viewed the quality control process as a vehicle to determine whether adequate documentation exists in the file to support the original compliance reviewer's determination. These types of quality control reviews can be performed 6 months to a year after the original compliance review and do not necessarily include a field visit.

We determined the guidance in NFSAM is unclear and may not be detailed enough to help the quality control reviewers validate the original determination. Specifically, the manual does not require the States to conduct site visits during quality control reviews of the original compliance reviews. NFSAM states that the quality control review will include a review to ensure that all status reviews have been completed in a timely manner "as set forth in Part 518."[23] Part 518 outlines how the original compliance review should be conducted, to include a field visit, but it does not specify instructions for quality control reviews. We do not believe the requirement for quality control reviews is clear enough. NRCS needs to develop specific guidance in NFSAM to help States conduct effective quality control reviews and ensure accurate HEL compliance determinations are made.

The variety of guidance on gully erosion and compliance reviews among NRCS' State offices exists because the NRCS national office does not review each State's guidance for sufficiency and consistency. The national office also has not issued adequate guidance or benchmarks to

[22] NFSAM, Fifth Edition, Part 510, Subpart C, Sec 510.21 (B)(vi), November 2010.
[23] NFSAM, Fifth Edition, Part 519, Sec 519.2 (B)(xiii), November 2010.

help the States develop standards for corrective action, treatment, and control of gully erosion. National office staff contend that, because each State is different, the States are better equipped to develop plans that specifically address their unique issues. However, our field work showed that the lack of consistency across the States means that gully erosion may not be adequately addressed in all the States. This may result in inconsistent determinations of compliance and therefore inequitable treatment of producers.

NRCS' national office also needs to clarify how detailed the field review portion of the compliance reviews should be. There are inconsistencies between national officials' expectations of the extent of coverage during field reviews, the NFSAM guidance, and the actions of some compliance reviewers. NRCS has a system of internal quality control checks to ensure the compliance review process is functioning adequately. However, NRCS' guidance over quality control reviews is lacking, which may lead to inconsistent and ineffective quality control reviews. Without adequate guidance, NRCS may not be effectively ensuring compliance with HEL and WC provisions.

Recommendation 1

NRCS' national office needs to clarify its guidance in the National Food Security Act Manual (NFSAM) regarding the level of treatment required to stabilize or treat all types of gully erosion, to include both ephemeral and classical.

Agency Response

In its May 20, 2016, response, NRCS concurred with this recommendation. NRCS agrees that national guidance on the level of treatment required to stabilize or treat all types of gully erosion needs to be clarified. The estimated completion date is December 31, 2016.

OIG Position

We accept management decision for this recommendation.

Recommendation 2

NRCS' national office should conduct a review of State-issued guidance for controlling ephemeral and classical gully erosion and ensure State guidance is adequate and consistent with the levels identified in Recommendation 1.

Agency Response

In its May 20, 2016, response, NRCS concurred with this recommendation. NRCS agrees that a review of State-issued guidance for controlling ephemeral and classical gully erosion should be

conducted to ensure State guidance is adequate and consistent with the treatment levels identified in Recommendation 1. The estimated completion date is December 31, 2016.

OIG Position

We accept management decision for this recommendation.

Recommendation 3

NRCS needs to clarify in NFSAM that, to the greatest extent possible, representative areas most susceptible to gully erosion must be reviewed and documented to facilitate a review the following year of any compliance issues noted. In addition, clarification is needed related to the required review of tracts owned by USDA employees.

Agency Response

In its May 20, 2016, response, NRCS concurred with this recommendation. NRCS agrees that national guidance needs to be clarified to ensure that to the greatest extent possible, representative areas most susceptible to gully erosion must be reviewed and documented to facilitate a review the following year of any compliance issues noted and to provide clarification on the required review of tracts for employees. The estimated completion date is December 31, 2016.

OIG Position

We accept management decision for this recommendation.

Recommendation 4

NRCS needs to revise NFSAM to ensure quality control reviews are performed in a consistent and effective manner and can facilitate a validation of compliance determinations.

Agency Response

In its May 20, 2016, response, NRCS concurred with this recommendation. NRCS agrees that national guidance needs to be clarified to ensure quality control reviews are performed in a consistent and effective manner and can facilitate a validation of compliance determinations. The estimated completion date is December 31, 2016.

OIG Position

We accept management decision for this recommendation.

Finding 2: NRCS Did Not Clearly Define Roles and Responsibilities for Wetland Compliance Reviews

We found compliance reviewers had differing opinions about NRCS' actions when wetland conditions noted during field visits do not match the historical imagery and the wetland inventory maps, and where they should check for possible wetland manipulation. Some reviewers stated the maps should be adjusted to match the field conditions while others did not think the maps could be revised unless there were signs of wetland manipulation.[24] This occurred because NRCS' guidance does not adequately define the roles and responsibilities of compliance reviewers for reviewing tracts for wetland conservation compliance, especially in situations where maps and field conditions are inconsistent. As a result, NRCS compliance reviews may not ensure consistent and equitable treatment of producers whose land is subject to the wetland conservation provisions.

Compliance reviews are technical reviews of an entire tract of land to determine conformance with the HEL and WC provisions of the Act. Included in the tracts to be reviewed are tracts having potential wetland characteristics. Compliance reviews typically consist of an office review and a field review. For office reviews, NRCS will review offsite resources such as aerial photography, soil surveys, topographic maps, or other map bases to determine wetland signatures and the potential presence of hydric soils or hydric soil inclusions. For field reviews, NRCS will review the entire tract for potential wetland violations.[25]

Reviewers rely heavily on the agency's wetland inventory maps to conduct compliance reviews.[26] As part of the preliminary office review portion of the compliance review, NRCS officials will compare the wetland inventory maps to more recent imagery. As part of the field review portion, NRCS officials will typically only look for possible wetland violations on the areas identified as "wetlands" on the wetland inventory maps, despite the knowledge that these maps may not reflect the current conditions in the field and despite the guidance indicating the entire tract should be reviewed for wetland compliance as part of the field review.

Discussions with NRCS staff revealed different opinions on compliance reviewers' roles when looking for wetland compliance violations. Some NRCS State and field officials conceded that wetlands may have been incorrectly identified initially, and that wetlands can change over time, but they said that the reviewer's role is to check for manipulation of previously-identified wetlands, not to identify new wetlands. Other NRCS State and field officials believed that if new wetlands are identified during the compliance reviews, the maps should be updated accordingly; alternatively, a certified determination should be made.[27] Still other NRCS State officials stated that if a new wetland is identified but no manipulation has occurred, no further action by NRCS is necessary.

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[24] Wetland manipulation is any activity that results in impairing or reducing the flow, circulation, or reach of water.
[25] NFSAM, Fifth Edition, Part 518, Subpart C, Sec 518.10(C)(i).
[26] NRCS' wetland inventory maps are over 25 years old as this process was initially used by NRCS to identify all wetlands.
[27] A certified wetland determination indicates areas subject to NRCS wetland conservation provisions. The determination stays in effect as long as the land is used for agricultural purposes or until the producer requests a review due to a natural event that alters the wetland.

We noted that the conditions in the field were not always consistent with the imagery used by NRCS during compliance reviews to check for wetland compliance and NRCS officials gave conflicting opinions on what course of action they should take. For example, in one State we identified an area with wetland characteristics that was not identified as such on the wetland inventory maps (see Figure 9).

Figure 9: Section of a field that was not identified as a wetland on the wetland inventory maps.

The NRCS officials who accompanied us on this site visit said this area should be noted on the maps as a wetland. However, NFSAM does not address the compliance reviewers' role when they encounter inaccurate wetland inventory maps. NRCS national officials stated NRCS should not be updating wetland inventory maps or performing certified wetland determinations unless specific criteria are met.[28] They also said compliance reviewers should not place too much emphasis on only one resource when performing reviews to determine wetland compliance, like the wetland inventory maps. For example, reviewers can also rely on recent and historical aerial photography, soil surveys, and topographic maps in preparation for performing a compliance review. The officials also indicated that the large size of tracts in the western part of the country make it impractical for a compliance reviewer to review the entire tract.

[28] NRCS officials said NRCS can only make a certified wetland determination if requested by the producer, if they receive a whistleblower complaint, or if they witness possible wetland manipulation.

NRCS officials agree that they need to clarify the guidance on the role of wetland compliance reviewers. This clarification should clear up any misunderstandings regarding if the reviewer should update agency wetland inventory maps, as well as describe other resources available to reviewers when performing compliance reviews. With clearer guidance, reviewers will be able to perform more equitable wetland compliance reviews on a national basis.

Recommendation 5

NRCS needs to clarify its guidance in the NFSAM regarding the roles and responsibilities of the compliance reviewers while performing wetland compliance reviews. This guidance should specifically address instances where offsite resources, including wetland inventory maps, do not match conditions noted in the field.

Agency Response

In its May 20, 2016, response, NRCS concurred with this recommendation. NRCS agrees that national guidance needs to be revised regarding the roles and responsibilities of the compliance reviewers while performing the wetland compliance part of the reviews. The guidance should also specifically address instances where offsite resources, including wetland inventory maps, do not match conditions noted in the field. The estimated completion date is December 31, 2016.

OIG Position

We accept management decision for this recommendation.

Section 2: NRCS' Sampling Process is Not Effective to Assess Compliance with Conservation Requirements

Finding 3: NRCS Did Not Effectively Sample Eligible Tracts for Compliance Reviews

NRCS sampled from less than 16 percent of the universe of eligible tracts for the 2015 HEL and WC compliance reviews. We previously reported that in 2015 FSA provided NRCS with over 1.1 million fewer tracts to sample from than in previous years.[29] In addition to this omission, we found NRCS left out an additional 325,000 tracts when it generated the 2015 sample. This occurred because NRCS did not correctly process the data received from FSA, and did not adequately analyze the generated sample to identify that counties with a two-digit administrative county code were not reflected in the sample. As a result, nearly 1.5 million tracts that are required to comply with HEL and WC provisions were not considered for a 2015 compliance review. Consequently, NRCS cannot determine an accurate rate of compliance for 2015, since it did not generate a representative sample of eligible tracts on which to perform compliance reviews.

Annually, NRCS conducts compliance reviews of an entire agricultural tract to determine conformance with HEL and WC provisions of the Act. NRCS' guidance requires the number of tracts selected will be "sufficient" to accurately assess compliance with HEL and WC provisions at the national level.[30]

We raised serious questions concerning how the universe of tracts subject to conservation compliance is compiled and issued an interim report to USDA documenting our concerns.[31] In short, we determined that NRCS had not used a comprehensive universe of eligible tracts because it included only producers participating in one FSA program. We also found FSA had inadvertently omitted universe data from 10 States that had historically made up about 34 percent of eligible tracts. The agencies involved agreed to make changes starting with the 2016 compliance reviews. However, we have additional concerns regarding the generation of the 2015 sample.

NRCS selected a sample from the FSA-provided dataset of about 600,000 tracts.[32] Using this dataset, NRCS selected a random sample of 7,161 tracts, but NRCS officials stated the software application used did not recognize tracts from counties with a two-digit county code and subsequently left these tracts out of the sample.

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[29] For the 2012 through 2014 compliance reviews, NRCS sampled from about 1.7 million tracts. In 2015, NRCS used a universe of about 600,000 tracts. OIG Report 50601-0005-31(1), *USDA Monitoring of Highly Erodible Land and Wetland Conservation Violations (Interim Report)*, March 2, 2016.

[30] NFSAM, Fifth Edition, Part 518, Sec 518.0 (A)(3), November 2010.

[31] OIG Report 50601-0005-31(1), *USDA Monitoring of Highly Erodible Land and Wetland Conservation Violations (Interim Report)*, March 2, 2016.

[32] Annually, FSA provides NRCS with a universe of agricultural tracts that are subject to the conservation compliance provisions of the Act. NRCS selects a sample of about 1 percent of this universe for compliance reviews. For the 2015 compliance reviews, FSA provided NRCS with a dataset of 1,276,845 tracts; however, a large number were duplicates or had inaccurate tract data.

NRCS identifies all counties in the country by a code number, assigned alphabetically. The numbering typically only uses odd numbers. For example, if a State has 20 counties, the county codes would cover 1 through 39 (only using odd numbers). In this example, NRCS' random generator tool would have picked up the first five counties alphabetically (county codes 1, 3, 5, 7, and 9), but did not select from the other counties in the State (those numbered 11, 13, 15, etc.). Depending on the distribution and number of HEL and wetland tracts in the State, this could cause a significant percentage of tracts to be excluded from the sample.

Most States have more than 50 counties. In these States, the county codes surpass 101. NRCS' random number generator picked up three-digit county codes so that counties with codes of 101 or higher were reflected in the sample. However, the majority of eligible tracts in the FSA-provided dataset were located in counties with two-digit codes, comprising approximately 54 percent of eligible data.

For example, North Dakota, Wisconsin, and Montana historically had a large number of sampled tracts to review each year.[33] However, since the majority of the eligible tracts in these States were in counties with two-digit codes, the sampled tracts NRCS was required to review in 2015 dropped significantly. From 2012 through 2014, North Dakota averaged nearly 1,600 tracts to review; Wisconsin, over 1,300; and Montana, over 900. For the 2015 sample, these numbers fell to 209, 182, and 132 respectively (see Figure 10). The NRCS officials in charge of developing the sample did not notice the individual State numbers dropped because they did not look at the data from a State-level basis.

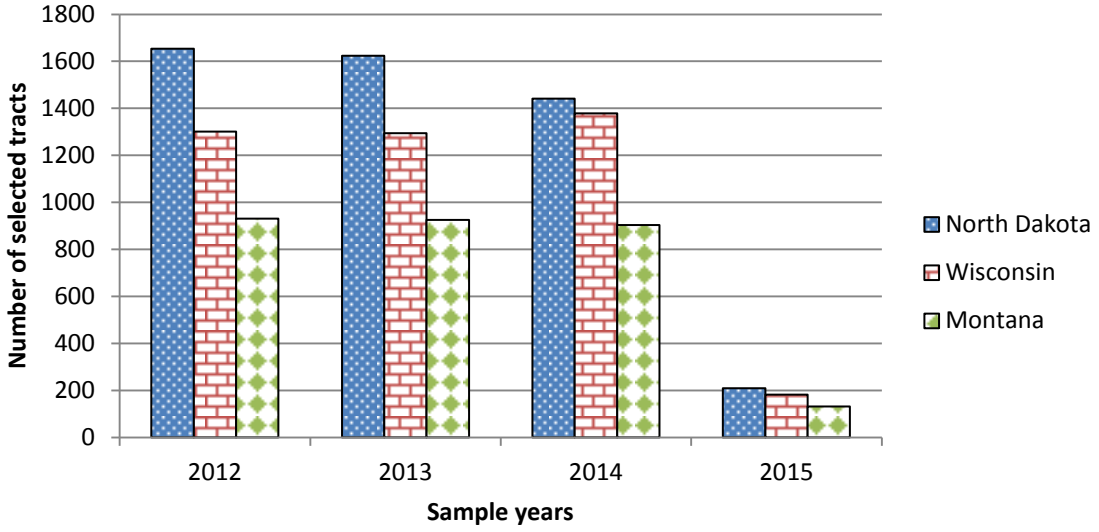

Figure 10. The elimination of two-digit county codes significantly reduced the number of sampled tracts in 2015 for North Dakota, Wisconsin, and Montana.

[33] For sample years 2012-2014, North Dakota had the 4th most tracts to sample, Wisconsin the 7th most, and Montana, the 11th most.

NRCS' processing of FSA data historically was contingent upon a prescribed dataset from FSA in an established format. Due to changes in FSA's processes, the dataset for the 2015 compliance reviews came to NRCS in an unfamiliar format. NRCS officials stated that when they reformatted the data to put them in a recognizable and usable format, they noticed that the software application did not pick up all the county codes. NRCS attempted to address the problem; however, the solution only fixed the counties with one-digit county codes and did not fix the two-digit county codes. This issue was not immediately apparent since the total sampled tracts appeared to be within tolerance and showed a distribution across the country. Since we brought this to NRCS' attention, NRCS officials said it has instituted additional quality control processes to make sure this situation does not happen again.

We also had concerns with NRCS' process of excluding tracts from review. We found NRCS officials are not properly excluding tracts from the sample. NFSAM says NRCS may exempt a tract from a compliance review if the tract has been reviewed at least once in the past 2 years and found to be actively applying an approved conservation system or conservation plan.[34] The NRCS field office personnel we spoke with said that they follow the instructions as listed in NFSAM. When they receive the list of sampled tracts, they review the list to identify invalid tracts.[35] The field office personnel remove such tracts and select new ones.

However, the national office staff responsible for creating the sample had a different approach to excluding tracts. These officials explained that they identify producers that have had a tract reviewed in the last 2 years and then exclude the producer. This method excludes many more tracts from selection, because all tracts associated with the excluded producer are also excluded, not just the tract that was previously reviewed. On average, producers have about two tracts they farm that are subject to HEL and WC provisions. However, large producers could farm over 100 tracts subject to these provisions and very large producers could farm in excess of 600 tracts. For example, one producer in Colorado had 359 tracts subject to HEL and WC provisions in 2013 covering in excess of 92,000 acres. If one of this producer's tracts was reviewed in 2011 or 2012 and found to be compliant, NRCS would have excluded all 359 tracts instead of just the 1 reviewed and these 92,000 acres would not have been subjected to a random compliance review. As with other discrepancies mentioned above, this further reduces the number of eligible tracts subject to compliance reviews.

We previously reported in an interim report that the dataset of tracts provided to NRCS by FSA in 2015 was incomplete as 10 States were excluded from the dataset. These 10 States historically had 34 percent of the tracts subject to compliance reviews.[36] Together, these problems create non-inclusive samples that severely hamper NRCS' ability to ensure producer compliance with HEL and WC provisions. USDA pays producers, on average, approximately $14 billion per year for assistance for which conservation compliance is a requirement, but payments may go to noncompliant producers if sampling methods are inaccurate. NRCS is

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[34] NFSAM, Fifth Edition, Part 518, Subpart C, Sec 518.3 (A)(i), November 2010.
[35] Valid tracts have HEL or wetlands, annually tilled crops, and are owned or operated by a person receiving USDA payments.
[36] OIG Report 50601-0005-31(1), *USDA Monitoring of Highly Erodible Land and Wetland Conservation Violations (Interim Report)*, March 2, 2016.

responsible for identifying producers who are not in compliance with HEL and WC provisions of the Act, and it uses compliance reviews as one of its tools in performing this function.[37] Without a representative sample of tracts to review, NRCS cannot accurately determine and report a national compliance rate.

Recommendation 6

NRCS should institute additional quality control checks to ensure the sampled tracts are sufficient to assess compliance on a national level. These checks should:

- Include a review of the process used to reformat future FSA data to ensure the process sufficiently includes all counties with agricultural tracts subject to compliance with the Food Security Act of 1985.

- Ensure agency officials involved in the sampling process are instructed that only those tracts reviewed once in the last two years and found to be compliant should be excluded from the sample and not to exclude all tracts associated with the subject producer.

Agency Response

In its May 20, 2016, response, NRCS concurred with this recommendation. NRCS agrees that additional quality control checks need to be established to ensure the sampled tracts are sufficient to assess compliance on a national level. These checks should include a review of the process used to select future FSA data to ensure the process sufficiently includes all counties with agricultural tracts subject to compliance with the Food Security Act of 1985. Additionally, the sampling process should ensure that only those tracts reviewed once in the past 2 years and found to be compliant should be excluded from the sample and not to exclude all tracts associated with the subject producer. The estimated completion date is September 30, 2016.

OIG Position

We accept management decision for this recommendation.

[37] NRCS uses compliance reviews, referrals from FSA, whistleblower referrals, and observations to determine possible noncompliance with HEL and WC provisions.

Scope and Methodology

During the course of the audit we interviewed Department officials and reviewed NRCS' and FSA's processes and controls. These agencies, as well as RMA, have joint responsibility for carrying out HEL and WC provisions of the Act as amended. We focused on HEL and WC review activities for these agencies in 2012 through 2015. USDA's Economic Research Service (ERS) estimated USDA makes payments subject to conservation compliance requirements in excess of $14 billion annually.[38]

The objective of this review was to evaluate the processes used by NRCS and FSA to identify and monitor the proper disposition of compliance violations related to the HEL and WC provisions of the Act.

We performed our audit of HEL and WC reviews at each agency's national office in Washington, D.C., and Beltsville, Maryland; four State offices; and 12 local offices. We non-statistically selected Kansas, Missouri, Nebraska, and South Dakota for our review. We selected State offices and local offices based on their critical erosion period, number of recently completed compliance reviews, and number of prior year variances. As part of our fieldwork, we visited 60 tracts and assessed producer compliance with HEL and WC provisions. We selected tracts based on whether a compliance review was recently completed or a variance granted. We also considered the size of tracts. We performed fieldwork for this audit from April 2015 through February 2016.

To accomplish our objectives, we performed the following audit procedures:

- Reviewed applicable laws, regulations, and agency procedures concerning the administration of HEL and WC provisions.
- Discussed HEL and WC provisions and requirements with NRCS and FSA officials at their respective national, State, and local offices.
- Discussed the process used to gather the universe of tracts subject to HEL and WC provisions with FSA staff in Kansas City, Missouri.
- Discussed HEL and WC sampling methodology with NRCS officials in Ft. Collins, Colorado.
- Discussed RMA's involvement in the process to accumulate a comprehensive universe of tracts subject to HEL and WC provisions with RMA officials in Kansas City, Missouri. RMA's inclusion in the HEL and WC compliance process was limited at the time of fieldwork because the requirement for premium subsidies to be subject to conservation compliance had only recently been included as part of the 2014 Farm Bill. Final rules regarding RMA's involvement in the compliance process had not been published at the time of our fieldwork. Therefore, the process tested in this audit was the process used by NRCS and FSA to identify violators.
- Performed site visits to 60 sampled tracts to view the practices and structures implemented to reduce soil erosion and to assess compliance with HEL and WC provisions.

[38] ERS data are from fiscal years 2003 through 2010.

- Discussed the issues we found during our review with the national office officials from NRCS and FSA.
- Reviewed, assessed, and analyzed audit evidence from audited agencies, such as performance measures, quality assurance elements, and universe and sample data.

Since our audit objective encompasses all programs subject to HEL and WC compliance, we did not verify information in any USDA electronic information system and we make no representation regarding the adequacy of any agency computer systems or information generated from them.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Abbreviations

DCP.....Direct and Counter-Cyclical Payment
ERS .....Economic Research Service
FSA .....Farm Service Agency
HEL.....Highly Erodible Land
NFSAM.....National Food Security Act Manual
NRCS .....Natural Resources Conservation Service
OIG .....Office of Inspector General
RMA .....Risk Management Agency
USDA.....Department of Agriculture
WC .....Wetland Conservation

Exhibit A: Interim Report

OIG Report 50601-0005-31(1), *USDA Monitoring of Highly Erodible Land and Wetland Conservation Violations (Interim Report)*, March 2, 2016 available at www.usda.gov/oig.

USDA'S
NATURAL RESOURCES CONSERVATION SERVICE
RESPONSE TO AUDIT REPORT

United States Department of Agriculture

May 20, 2016

SUBJECT: SPA - Natural Resources Conservation Service (NRCS) Agency Response – Audit Report – 50601-0005-31, USDA Monitoring of Highly Erodible Land (HEL) and Wetland Conservation Violations—

TO: Gil H. Harden
Assistant Inspector General for Audit
Office of Inspector General

File Code: 340-7

Attached are NRCS' responses for Highly Erodible Land (HEL) and Wetland Conservation Violations for Audit Number 50601-0005-31.

The attached responses addresses the actions taken and planned for audit recommendations #1 through 6.

If you have questions, please contact Leon Brooks, Director, Compliance Division, at (301) 504-2190, or email: leon.brooks@wdc.usda.gov.

/s/ Leonard Jordan for

Jason A. Weller
Chief

Attachment

Attachment

Agency Response to the Office of Inspector General (OIG) Audit Report 50601-0005-31, USDA Monitoring of Highly Erodible Land (HEL) and Wetland Conservation (WC) Violations

During the review of HEL and WC Tracts, the auditors noted that:

Finding 1: NRCS Compliance Reviews of HEL Tracts result in Inconsistent Compliance Determinations

A. NRCS State offices have developed inadequate guidance for consistently applying standards in conducting compliance and quality control reviews specific to the Act's HEL conservation provisions and specifically for evaluating and correcting gully erosion.

Recommendation 1:

NRCS' national office needs to clarify its guidance in the National Food Security Act Manual (NFSAM) regarding the level of treatment required to stabilize or treat all types of gully erosion to include ephemeral and classical.

Agency Response:

NRCS agrees that national guidance on the level of treatment required to stabilize or treat all types of gully erosion needs to be clarified.

Estimated Completion Date: December 31, 2016

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

Recommendation 2:

NRCS' national office should conduct a review of State issued guidance for controlling ephemeral and classical gully erosion and ensure State guidance is adequate and consistent with the levels identified in Recommendation 1.

Agency Response:

NRCS agrees that a review of State issued guidance for controlling ephemeral and classical gully erosion should be conducted to ensure State guidance is adequate and consistent with the treatment levels identified in Recommendation 1.

Estimated Completion Date: December 31, 2016

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

Recommendation 3:

NRCS needs to clarify in NFSAM that, to the greatest extent possible, representative areas most susceptible to gully erosion must be reviewed and documented to facilitate a review the following year of any compliance issues noted. In addition, clarification is needed related to the required review of tracts owned by USDA employees.

Agency Response:

NRCS agrees that national guidance needs to be clarified to ensure that to the greatest extent possible, representative areas most susceptible to gully erosion must be reviewed and documented to facilitate a review the following year of any compliance issues noted and to provide clarification on the required review of tracts for employees.

Estimated Completion Date: December 31, 2016

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

Recommendation 4:

NRCS needs to revise NFSAM to ensure quality control reviews are performed in a consistent and effective manner and can facilitate a validation of compliance determinations.

Agency Response:

NRCS agrees that national guidance needs to be clarified to ensure quality control reviews are performed in a consistent and effective manner and can facilitate a validation of compliance determinations.

Estimated Completion Date: December 31, 2016

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

Finding 2: NRCS Did Not Clearly Define Roles and Responsibilities for Wetland Compliance Reviews

B. NRCS compliance reviewers had differing opinions about NRCS' actions when wetland conditions noted during field visits do not match the historical imagery and the wetland inventory maps, and where they should check for possible wetland manipulation.

Recommendation 5:

NRCS needs to clarify its guidance in NFSAM regarding the roles and responsibilities of the compliance reviewers while performing wetland compliance reviews. This guidance should specifically address instances where offsite resources, including wetland inventory maps, do not match conditions noted in the field.

Agency Response:

NRCS agrees that national guidance needs to be revised regarding the roles and responsibilities of the compliance reviewers while performing the wetland compliance part of the reviews. The guidance should also specifically address instances where offsite resources, including wetland inventory maps, do not match conditions noted in the field.

Estimated Completion Date: December 31, 2016

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

Finding 3: NRCS Did Not Effectively Sample Eligible Tracts for Compliance Reviews

C. In 2015, the Farm Service Agency (FSA) provided NRCS with over 1.1 million fewer tracts to sample from the previous years, also found the NRCS left out an additional 325,000 tracts when it generated the 2015 sample.

Recommendation 6:

NRCS should institute additional quality control checks to ensure the sampled tracts are sufficient to assess compliance on a national level.

Agency Response:

NRCS agrees that additional quality control checks need to be established to ensure the sampled tracts are sufficient to assess compliance on a national level. These checks should include a review of the process used to select future FSA data to ensure the process sufficiently includes all counties with agricultural tracts subject to compliance with the Food Security Act of 1985. Additionally, the sampling process should ensure that only those tracts reviewed once in the past 2 years and found to be compliant should be excluded from the sample and not to exclude all tracts associated with the subject producer.

Estimated Completion Date: September 30, 2016

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

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