



United States Department of Agriculture
Office of Inspector General





USDA Monitoring of Highly Erodible Land and Wetland Conservation Violations – Interim Report

Audit Report 50601-0005-31(1)

What Were OIG's

Objectives

The ongoing audit evaluates the processes NRCS and FSA use to identify and monitor the proper disposition of compliance violations related to the HEL and Wetlands conservation provisions of the Food Security Act of 1985. This interim report focuses on the data universe for selecting annual reviews in order to effect change for the 2016 compliance program.

What OIG Reviewed

We reviewed the data used by NRCS and FSA in the 2012-2015 HEL and Wetlands conservation compliance reviews.

What OIG Recommends

NRCS, FSA, and RMA should draft a Memorandum of Understanding (MOU) that outlines the responsibilities of each agency for generating a timely and accurate universe for compliance reviews. In addition, the agencies should establish an interagency working group to define the universe and develop and implement an effective methodology.

OIG audited NRCS' and FSA's controls for generating datasets for annual reviews of Highly Erodible Land and Wetlands conservation compliance

What OIG Found

The Natural Resources Conservation Service (NRCS) and the Farm Service Agency (FSA) did not successfully collaborate to generate a comprehensive universe for use in the 2012-2015 Highly Erodible Land (HEL) and Wetlands conservation compliance reviews. Neither NRCS nor FSA have developed adequate guidance to determine the responsibilities of each agency in this process, and instead rely on informal communication such as emails and unwritten agreements.

For the 2012-2015 compliance reviews, NRCS requested a universe of data from FSA that only included records from one FSA program. This request did not account for producers participating in other FSA programs or any NRCS programs subject to the HEL and Wetlands conservation provisions. For the 2015 random compliance sample, FSA used data from the National Payment Services; however, this dataset omitted data from 10 States and produced duplicate and invalid records.

Because not all producers subject to the random compliance reviews were included in the data universe, NRCS cannot effectively verify that the results of its random sample reviews accurately reflect producer compliance with HEL and Wetlands conservation provisions. The 2014 Farm Bill made changes to the provisions governing compliance reviews that will necessitate collaboration with the Risk Management Agency on compliance reviews beginning in 2016.

The agencies agreed with our findings, and we accepted management decision on both recommendations.



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



DATE: March 2, 2016

AUDIT
NUMBER: 50601-0005-31(1)

TO: Jason Weller
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ATTN: Leon Brooks

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FROM: Gil H. Harden
Assistant Inspector General for Audit

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

This report presents the interim results of the subject audit. Your written response, dated January 15, 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 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 Wetlands conservation provisions of the 1985 Food Security Act, as amended (the Act).¹ These provisions are designed to reduce soil loss on erosion-prone lands and to protect wetlands because of the multiple benefits they provide. HEL and Wetlands conservation 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. 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.

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 produce agricultural commodities on converted wetlands. Prior to receiving USDA payments, producers must self-certify² that they are in full compliance with the provisions of the Act. NRCS has the responsibility, in part, to determine whether producers are complying with these provisions, and to conduct annual compliance reviews to accomplish this. These technical reviews, based on a nation-wide sample of tracts, determine if the tracts conform to the HEL and Wetlands conservation provisions. If the reviewed tracts are determined to have inadequately addressed these provisions, the producers associated with the tracts may be ineligible for USDA payments.

NRCS makes an annual request to FSA for a dataset of tracts subject to HEL and Wetlands conservation provisions, from which it selects a sample for review. To be included in the dataset, the tract of land must meet the following criteria: have highly erodible land or a wetland area; produce an agricultural commodity; and be owned or operated by a producer who receives an FSA payment. FSA will then generate a dataset of tracts meeting these criteria.³ Using this dataset, NRCS currently randomly selects about 1 percent of these tracts for its annual review of compliance with HEL and Wetlands conservation provisions. For the 2012 through 2014 compliance reviews, FSA provided a dataset with an average of 1,757,048 tracts per year. For the 2015 compliance review, this number dropped to 1,276,845, a difference of 480,203 tracts, or 27 percent.

¹ Public Law 99-198, "Food Security Act of 1985" (known as the 1985 Farm Bill).

² Producers use Form AD-1026, "Highly Erodible Land Conservation (HEL) and Wetland Conservation (WC) Certification," to certify that HEL and Wetlands conservation provisions of the Act will not be violated.

³ FSA has the capability to provide a list of producers receiving FSA payments only. NRCS payments would not be included in FSA's dataset. To be included in the universe, NRCS would need to add its own payments to FSA's dataset.

Until recently, only FSA and NRCS programs were subject to HEL and Wetlands conservation provisions. However, the 2014 Farm Bill amended the Act to also include producers receiving premium subsidies under the Federal crop insurance program.⁴ Beginning in 2015, producers receiving Federal crop insurance premium subsidies from RMA must also certify compliance with the Act and are now subject to NRCS' random compliance reviews.⁵

Objectives

The objective of this review was to evaluate the processes NRCS and FSA use to identify and monitor the proper disposition of compliance violations related to the HEL and Wetlands conservation provisions of the Food Security Act of 1985. This is an interim report focusing on the data universe for selecting annual reviews in order to effect change for the 2016 compliance program. Our audit is ongoing and we plan to further evaluate NRCS' and FSA's controls over HEL and Wetlands conservation compliance.

⁴ Public Law 113-79, "Agricultural Act of 2014" (known as the 2014 Farm Bill).

⁵ Producers who do not certify compliance with the HEL and Wetland conservation provisions will be ineligible for Federal crop insurance premium subsidies beginning with the 2016 reinsurance year, with a sales closing date on or after July 1, 2015.

Finding 1: NRCS, FSA, and RMA Need Guidance to Ensure Comprehensive Data Universes

NRCS and FSA did not successfully collaborate to generate a comprehensive universe for use in the 2012-2015 HEL and Wetlands conservation provisions compliance reviews. This occurred because neither NRCS nor FSA have developed adequate guidance to determine the responsibilities of each agency in this process. As a result, not all producers who received USDA payments and who were required to comply with the HEL and Wetlands conservation provisions were included in the comprehensive universe and, therefore, were not subject to random review for compliance. Because of this fact, NRCS cannot effectively verify that the results of its random sample reviews for 2012-2015 accurately reflect USDA's rate of compliance with HEL and Wetlands conservation provisions.

To meet the objectives of the Food Security Act of 1985, NRCS submits annual requests to FSA for a dataset of the tracts subject to the HEL and Wetlands conservation provisions. NRCS then randomly selects tracts from that dataset and performs a technical review of the entire tract to determine compliance with the provisions. The number of tracts selected should be sufficient to accurately assess compliance with the provisions of the Act at the national level. Due to changes in the 2014 Farm Bill, producers who receive Federal crop insurance premium subsidies must also comply with HEL and Wetlands conservation provisions. This change will necessitate additional collaboration with RMA to obtain a complete universe of producer tracts subject to annual review.

We found the process of developing the dataset of tracts relies primarily on agency communication through emails and unwritten agreements. Using that information, we identified the three steps NRCS and FSA take:

1. NRCS requests a dataset of tracts from FSA;
2. FSA generates the dataset of tracts;⁶ and
3. NRCS randomly selects tracts from the FSA dataset for compliance reviews.

We found deficiencies in the first two steps that need immediate attention; these are detailed below.

Issue 1: NRCS Did Not Request a Comprehensive Universe

NRCS did not request or obtain a complete universe of agricultural tracts subject to HEL and Wetlands conservation provisions for its 2012-2015 compliance reviews. This occurred because FSA and NRCS did not establish formal guidance that clearly identified: (1) the parameters of data that should be included in the universe; (2) timeframes for all required processes; and (3) responsible officials at each agency. The agencies did not have a Memorandum of Understanding (MOU) in place to define those requirements. As a result, a significant number of tracts were not included in the

⁶ The dataset generated by FSA did not include producers participating in NRCS programs unless those producers also received an FSA payment.

universe of tracts and therefore were not subject to random HEL and Wetlands conservation compliance reviews.

For random compliance reviews conducted in 2012-2015, NRCS only requested that FSA provide a universe of tracts for producers that received payments from FSA's Direct and Counter Cyclical Program (DCP). This request did not account for producers participating in other FSA programs or any NRCS programs. However, FSA's regulations state that all recipients of payments, loans, or other benefits from programs administered by FSA and NRCS need to comply with HEL and Wetlands conservation provisions.⁷ USDA's Economic Research Service (ERS) estimated USDA makes payments subject to conservation compliance requirements in excess of \$14 billion annually.⁸ NRCS' manual lists eight agency programs that require compliance with the Act's conservation provisions, including the Environmental Quality Incentives Program (EQIP) and the Conservation Stewardship Program (CSP). NRCS obligated over \$2.3 billion for these programs in fiscal year (FY) 2014; they are the agency's two largest programs. These two programs specifically require each participant to comply with the conservation provisions to retain eligibility and receive payments.

Headquarters officials from both agencies agreed that the data universes developed during our scope years did not include all required USDA programs. Senior NRCS Headquarters officials were unaware that a comprehensive universe was not being generated, but agreed that tracts associated with NRCS payments should be included in the universe of possible compliance reviews. Currently, tracts associated with NRCS payments are only included in the universe if the producer also received an FSA payment.

Issue 2: FSA Did Not Generate a Complete Universe

FSA did not provide NRCS with a complete dataset of HEL and Wetlands conservation tracts for selection in NRCS' 2015 random compliance sample. This occurred because the agencies involved did not adequately adjust their processes to account for legislative program changes, and because they have not established an MOU formally documenting each agency's responsibilities and methodologies for generating the dataset and ensuring data accuracy. As a result, a significant number of producers receiving USDA payments were not subject to random HEL and Wetland conservation compliance reviews in 2015.

For the 2012 through 2014 compliance reviews, FSA provided NRCS with a dataset of over 1.7 million tracts subject to compliance reviews. FSA used DCP payment data to develop this dataset of tracts, per NRCS' request. However, the 2014 Farm Bill did not re-authorize DCP. Despite this change, NRCS' request to FSA for a 2015 compliance sample dataset was still specifically focused on DCP payments. FSA instead used the National Payment Services to compile the needed data, which captures payments for all FSA programs.

⁷ The Agriculture Management Assistance, Emergency Watershed Protection, and Healthy Forests Restoration Programs, administered by NRCS, are exempted.

⁸ ERS data are from FYs 2003 through 2010.

The dataset FSA sent to NRCS for the 2015 compliance reviews contained 1,276,845 tracts. However, a large number of these tracts were in fact counted multiple times—they were duplicated because multiple lines of data listed a separate operator associated with the same tract. We also found data where listed tracts had invalid tract numbers. We eliminated the duplicates and incorrect data and determined FSA only provided a dataset of 602,468 valid, unduplicated tracts to NRCS from which to sample in 2015.

The table below lists 10 States which had tracts subject to HEL and Wetlands conservation provisions for the 2012-2014 compliance reviews, but which showed no tracts subject to the 2015 random review:

	2012 Review Data Number of Tracts	2013 Review Data Number of Tracts	2014 Review Data Number of Tracts	2015 Review Data Number of Tracts
Colorado	36,009	34,463	34,269	0
Connecticut	861	886	871	0
Illinois	125,304	123,845	121,412	0
Indiana	60,279	59,794	59,528	0
Iowa	137,610	136,688	134,705	0
Massachusetts	458	466	439	0
Michigan	48,458	47,609	45,874	0
Minnesota	90,740	89,645	89,010	0
Mississippi	22,452	22,179	21,387	0
Missouri	87,161	86,908	85,075	0
Total Tracts (for these States)	609,332	602,483	592,570	0

This occurred because the dataset FSA sent to NRCS did not include data from all 50 States, including States with historically large numbers of valid tracts like Iowa, Illinois, Minnesota, and Missouri.⁹ FSA did not notice data were missing from these 10 States, as it was more concerned that the total number of tracts provided a sufficient sample size. Upon receiving the 2015 compliance review data, NRCS officials in Ft. Collins, Colorado, noticed some State data were missing, but did not question FSA’s data.¹⁰ Neither agency analyzed the data at the State level. Because of this issue, tracts in these 10 States were not subject to random selection to ensure compliance with HEL and Wetland conservation provisions. USDA participants in these 10 States received over \$4 billion in FSA and NRCS program payments for FY 2014. We asked both agencies about the reason they either missed, or neglected to follow up on, the missing State data; neither was able to supply an answer.

⁹ For the 2012 through 2014 compliance reviews, these four States accounted for about 25 percent of the eligible tracts. Iowa averaged 7.76 percent of the eligible nationwide tracts, Illinois 7.03, Minnesota 5.11, and Missouri 4.92.

¹⁰ NRCS staff in Ft. Collins, Colorado, receives the FSA dataset and selects the 1 percent random sample.

FSA officials acknowledged the difficulties with obtaining the 2015 compliance dataset. FSA officials noted that the end of DCP required changes in how the dataset was created for the 2015 sample. However, neither FSA nor NRCS planned for this change and did not adjust their processes in a timely manner. The inadequate planning and coordination between FSA and NRCS caused the inaccuracies in the universe for the 2015 sample.

The Food Security Act of 1985 requires producers who participate in most FSA and NRCS programs to self-certify their compliance with HEL and Wetlands conservation provisions.¹¹ The scope of our review revealed that compliance review universes have not included all required tracts, because the universes have not incorporated all the programs required by the Act. This omission compounded problems with the 2015 compliance review, where producers in 10 States were already not subject to random compliance reviews because they were not included in the dataset FSA provided. The dataset did not accurately compile data from all the required programs. These issues point out the immediate need for a formal process to obtain a comprehensive universe of HEL and wetland tracts to review, and clearly defined roles for NRCS, FSA, and RMA.

This situation takes on increased importance in light of the 2014 Farm Bill amendment to the 1985 Act, which added premium subsidies for the Federal crop insurance programs to the list of assistance subject to HEL and Wetlands conservation provisions. Because of this development, the universe of data for future compliance reviews needs to include producers receiving Federal crop insurance premium subsidies from RMA. RMA's statutory inclusion in this process increases the need for a formalized process between NRCS, FSA, and RMA. Designated responsible officials at each agency must ensure the integrity of the data and process used to develop the compliance review sample. Otherwise, NRCS cannot effectively verify that the results of its random sample reviews accurately reflect producer compliance with HEL and Wetlands conservation provisions. Noncompliance may go undetected, resulting in improper payments to producers.

Recommendation 1

Draft and implement a Memorandum of Understanding (MOU) between NRCS, FSA, and RMA which outlines the responsibilities of each agency in generating a timely and accurate universe of tracts subject to Highly Erodible Land (HEL) and Wetlands conservation provisions. This MOU should include, but not be limited to:

- Outlining the parameters of data to be used in generating the universe for compliance reviews. This will include all NRCS, FSA, and RMA programs subject to the HEL and Wetlands conservation provisions;
- Timeframes for requesting the data;

¹¹ Sections 1211(a)(3) and 1221(b) state that producers who violate the provisions of the 1985 Farm Bill are ineligible for payments from the Environmental Quality Incentives Program and payments from programs under Subtitle D, which includes the Conservation Stewardship Program, Wetlands Reserve Program, and Grassland Reserve Program.

- Methodologies for generating the universe;
- Agency responsibilities for ensuring data accuracy and procedures to resolve data discrepancies; and
- Designating officials at each agency responsible for ensuring a complete and accurate universe for compliance reviews.

Agency Response

In their consolidated January 15, 2016, response, NRCS, FSA, and RMA stated:

The agencies agree that an MOU needs to be developed to generate a timely and accurate universe of tracts subject to the HEL and WC provisions. The effort to develop the MOU is underway. The estimated completion date is April 29, 2016.

OIG Position

We accept the agencies' management decision for this recommendation.

Recommendation 2

Establish an interagency working group composed of NRCS, FSA, and RMA program staff to define the universe and develop and implement an effective methodology for the 2016 compliance reviews.

Agency Response

In their consolidated January 15, 2016, response, NRCS, FSA, and RMA stated:

The agencies agree that an interagency working group should define the universe, and develop and implement an effective methodology for the 2016 compliance reviews. The working group has been assembled and currently in the process of developing the data universe for the 2016 compliance reviews. The estimated completion date is January 29, 2016.

OIG Position

We accept the agencies' management decision for this recommendation.

Scope and Methodology

We conducted our audit of HEL and Wetland compliance reviews at the NRCS office in Beltsville, Maryland, as well as the FSA offices in Kansas City, Missouri, and Washington, D.C. This is an interim report and only covers our work on the universe used to compile the sample of compliance reviews. Our audit work is ongoing.

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 Wetlands conservation provisions of the Food Security Act of 1985.

Our audit covered tract data used for the 2012 to 2015 compliance reviews. During this time period, FSA provided NRCS with a dataset of over 6.5 million tracts subject to HEL and Wetland compliance provisions. For data files used for compliance reviews from 2012 through 2015, we reviewed each year's data for consistency and determined if all USDA programs subject to HEL/Wetland compliance were included in the universe of tracts from which the compliance sample was drawn.

Since our audit objective encompasses all programs subject to HEL and Wetlands conservation 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.

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

- Reviewed applicable laws, regulations, and agency procedures concerning the administration of the HEL and Wetlands conservation provisions.
- Interviewed officials at FSA's IT center in Kansas City, Missouri, to gain an understanding of the process used to generate a dataset for HEL and Wetlands conservation compliance reviews.
- Interviewed FSA Headquarters officials in Washington, D.C., to discuss noted deficiencies in the process of generating a dataset and to discuss possible corrective action.
- Interviewed NRCS Headquarters officials in Beltsville, Maryland, to discuss what data needs to be gathered to ensure they have a comprehensive universe of tracts for compliance reviews.
- Reviewed raw universe data generated by FSA used by NRCS for compliance reviews in 2012 through 2015.

We conducted fieldwork between April 2015 and September 2015.

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

CSP.....	Conservation Stewardship Program
DCP.....	Direct and Counter-Cyclical Payment
EQIP.....	Environmental Quality Incentives Program
ERS.....	Economic Research Service
FSA.....	Farm Service Agency
HEL.....	Highly Erodible Land
MOU.....	Memorandum of Understanding
NRCS.....	Natural Resources Conservation Service
OIG.....	Office of Inspector General
RMA.....	Risk Management Agency
The Act.....	Food Security Act of 1985
USDA.....	Department of Agriculture
2014 Farm Bill.....	Agricultural Act of 2014

**USDA'S
RESPONSE TO AUDIT REPORT**



United States Department of Agriculture

January 15, 2016

SUBJECT: SPA - Natural Resources Conservation Service (NRCS) Agency
Response – Audit Report – 50601-5-31, USDA Monitoring of Highly Erodible
Land (HEL) and Wetland Conservation (WC) Violations

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

File Code: 340-7

Attached are NRCS' responses to audit report – 50601-5-31, HEL and WC
Violations.

The responses address the actions taken and planned for audit recommendations 1 and
2.

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

/s/

Jason A. Weller
Chief

Attachment

Agency Response: OIG Audit Report 50601-5-31, Highly Erodible Land (HEL) and Wetland Conservation (WC) Violations

Finding: NRCS, the Farm Service Agency (FSA), and the Risk Management Agency (RMA) need guidance to ensure Comprehensive Data Universes

Recommendation 1

Draft and implement a Memorandum of Understanding (MOU) between NRCS, FSA, and RMA that outlines the responsibilities of each agency in generating a timely and accurate universe of tracts subject to HEL and WC Provisions. The MOU should include, but not be limited to:

- Outlining the parameters of data to be used in generating the universe for compliance reviews. This data will include all NRCS, FSA, and RMA programs subject to the HEL and WC provisions
- Timeframes for requesting the data
- Methodologies for generating the universe
- Agency responsibilities for ensuring data accuracy and procedures to resolve data discrepancies
- Designating officials at each agency to be responsible for ensuring a complete and accurate universe for compliance reviews

Agency Response

The agencies agree that an MOU needs to be developed to generate a timely and accurate universe of tracts subject to the HEL and WC provisions. The effort to develop the MOU is underway.

Estimated Completion Date

April 29, 2016

Recommendation 2

Establish an interagency working group composed of NRCS, FSA, and RMA program staff to define the universe, and develop and implement an effective methodology for the 2016 compliance reviews.

Agency Response

The agencies agree that an interagency working group should define the universe, and develop and implement an effective methodology for the 2016 compliance reviews. The working group has been assembled and currently in the process of developing the data universe for the 2016 compliance reviews.

Estimated Completion Date

January 29, 2016

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