



U.S. Department of Agriculture



Office of Inspector General  
Great Plains Region

# Audit Report

## Natural Resources Conservation Service Status Review Process

Report No. 50601-13-KC  
June 2008

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UNITED STATES DEPARTMENT OF AGRICULTURE  
OFFICE OF INSPECTOR GENERAL  
Washington, D.C. 20250



DATE: June 11, 2008

REPLY TO  
ATTN OF: 50601-13-KC

TO: Arlen L. Lancaster  
Chief  
Natural Resources Conservation Service

Teresa C. Lasseter  
Administrator  
Farm Service Agency

ATTN: Diane Gelburd  
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FROM: Robert W. Young /s/  
Assistant Inspector General  
for Audit

SUBJECT: Status Review Process

This report presents the results of our Phase I review of the Natural Resources Conservation Service's (NRCS) Status Review Process.<sup>1</sup> NRCS designed the status review process to evaluate producer compliance with the highly erodible land conservation (HELC) and wetland conservation (WC) provisions. The HELC and WC provisions establish standards for controlling soil loss and preserving wetlands that producers must achieve to maintain eligibility for the Department of Agriculture's (USDA) farm program benefits. In 2007, USDA farm program benefits exceeded \$4 billion.<sup>2</sup> Our review evaluated changes to the status review process based on prior audit findings and recommendations made by the Office of Inspector General (OIG) and the Government Accountability Office (GAO). We evaluated changes to the sampling

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<sup>1</sup> In Phase II, we intend to evaluate the effectiveness of the status reviews in ensuring producer compliance with the specific conservation provisions.

<sup>2</sup> Final direct payments of approximately \$4 billion, plus earned counter cyclical payments, for producers with base acres enrolled in the Direct and Counter Cyclical Program.

methodology for selecting tracts for status review, the process by which status reviews are conducted, and the means by which status review results are summarized, analyzed, and reported. No reportable conditions were found during this phase of our review.

In assessing the agencies' actions to address prior audit findings and recommendations, we coordinated with GAO to determine the status of recommendations set forth in its 2003 report.<sup>3</sup> In that report, GAO recommended that USDA increase oversight of field office compliance reviews to improve accuracy and consistency, develop a more representative sample of tracts for review, develop an automated system to manage the data needed for reviews, and ensure that noncompliance waivers are supported. GAO also reported on the Farm Service Agency (FSA) waivers of NRCS noncompliance determinations, citing frequent inadequate justification and a resulting disincentive for NRCS field staff to issue violations. Recently performed followup by GAO recognized the agencies' commitment to implement measures to address prior findings and recommendations, particularly the agencies' actions to refine the universe of tracts subject to sample selection and to develop a web-based application to capture status review results.

Our review confirmed that NRCS has made considerable improvements to the status review sample selection and data collection processes; addressing major areas of concern included in prior OIG audit reports.<sup>4</sup> In response to criticisms that the universe of tracts subject to sample selection included tracts that were not subject to the HELC or WC provisions, NRCS engaged in collaborative discussions with FSA to identify possible alternatives for establishing a more applicable universe of eligible tracts. Through this collaboration, NRCS refined the data selection criteria to provide better assurance that the universe of land tracts from which a random sample is selected includes tracts that are subject to the HELC and WC provisions, thus decreasing the time and effort associated with identifying substitute tracts and providing for more reasonable estimates of producer compliance and noncompliance. In response to criticisms that the sampling and notification processes were not always timely, NRCS implemented policy that calls for the sample selection process to be completed in January of each year. NRCS now provides the selected tracts to State and field offices through a web-based application. Selection and notification of the sample tracts in January provides field offices with sufficient time to schedule and complete status reviews during critical erosion control periods. Once NRCS completes the status review, the data is entered into the web-based application by early December. Then NRCS can perform the appropriate summarization, analysis, and reporting of status review results by year end.

We found that NRCS changed its methodology for selecting tracts for status review. NRCS annually selects a random sample of approximately one percent of the universe nationwide (approximately 20,000 tracts). Tracts are available to be randomly selected every 3 years. Tracts owned or operated by a USDA employee are to have a status review performed every year. Tracts for which a variance was approved in the prior year also are to have a followup status

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<sup>3</sup> "USDA Needs to Better Ensure Protection of Highly Erodible Croplands and Wetlands," GAO-03-418, dated April 2003.

<sup>4</sup> "Soil Conservation Service Rescheduled Status Reviews," Audit Report No. 10099-12-KC, dated July 1993; "NRCS Conservation Compliance," Audit Report No. 10601-1-KC, dated September 1995; "NRCS Effectiveness of Status Review Process in Kansas," Audit Report No. 10099-9-KC, dated August 2002; "NRCS Compliance with Highly Erodible Land Provisions," Audit Report No. 10099-8-KC, dated September 2002.

review performed in the subsequent year. No reportable conditions were found regarding the changes to the sampling methodology for selecting tracts for status review, the process by which status reviews are conducted, and the means by which status review results are summarized, analyzed, and reported.

## **BACKGROUND INFORMATION**

The Food Security Act of 1985 (Public Law 99-198) introduced three conservation provisions to address environmental problems associated with highly erodible land and wetlands. Under the act, farmers were required to apply conservation systems to control soil loss or preserve wetlands on these lands or risk losing USDA program benefits. The conservation compliance provisions required farmers to apply conservation systems to land cropped in any year from 1981 through 1985 to substantially reduce soil erosion. The “sodbuster” provision applied to highly erodible land not farmed prior to passage of the Act. For these lands, farmers were required to apply a conservation system before planting and to control soil erosion at a higher level than required under conservation compliance. The “swampbuster” provision prohibited farmers from converting wetlands to cropland.

Enactment of the Food Security Act of 1985 dramatically altered the day-to-day operation of NRCS. Prior to the Act, NRCS was primarily involved with providing technical assistance to producers associated with the installation and implementation of conservation practices through voluntary initiatives. With passage of the Act, NRCS assumed a more regulatory role with delegated responsibilities for identifying highly erodible land, developing conservation plans capable of producing specified reductions in soil loss, and performing status reviews to evaluate producer compliance with the conservation provisions.

Each year, a randomly selected sample of tracts is subject to NRCS’ status review to evaluate continued producer implementation of prescribed conservation systems and maintenance of corresponding levels of soil loss and wetlands. Status reviews are to be performed during critical erosion control periods when soil is most vulnerable to wind or water erosion. NRCS field personnel perform file reviews and field inspections to evaluate the application and maintenance of designed conservation systems in controlling soil loss on highly erodible land and the preservation of identified wetlands. Status reviews that indicate a violation of the HELC or WC provisions are referred to FSA for a determination of eligibility for USDA benefits.

A prior audit performed by GAO raised concerns regarding the universe of land tracts subject to sample selection for performance of status reviews. The audit specifically noted that land tracts not impacted by the HELC and WC provisions were included in the sample selection process and the reporting of results, thus skewing agency-reported levels of producer compliance with the HELC and WC provisions. Prior OIG audits further questioned the timeframe for sample selection and notification of selected sample tracts to State and local field offices, noting that in some cases, the sampling and notification processes did not provide for the performance of status reviews within critical erosion control periods. Other concerns focused on the need for additional training and oversight of field personnel on performance of status reviews and development of an

information gathering system for use in summarizing, analyzing, and reporting status review results.

## **OBJECTIVES**

The objectives of our review were to identify changes made to the status review process since 2004, and evaluate the effectiveness of producer compliance with the HELC and WC provisions for the 2007 crop year. We planned to conduct the audit in two phases. Phase I was designed to evaluate changes to the status review process based on prior audit recommendations made by GAO and OIG, changes related to tract selection for status reviews, steps for performing the status review process, and the reporting of status review results. Phase II was intended to include field inspections for a selected sample of tracts subject to status reviews to assess agency compliance with policies and procedures from the field to Headquarters levels, and to evaluate producer compliance with the HELC and WC provisions. This report presents the results of Phase I of our review. Phase II will be performed as a separate review.

## **SCOPE AND METHODOLOGY**

To accomplish the audit objectives, we reviewed applicable laws, regulations, policies and procedures setting forth the criteria for establishing and maintaining highly erodible lands and wetlands, including related eligibility for USDA program benefits. We also reviewed agency policies and procedures for conducting status reviews, determining producer compliance with the HELC and WC provisions, and referring cases of noncompliance with the HELC and WC provisions for determinations of producer eligibility for USDA program benefits. We further reviewed prior audit reports issued by OIG and GAO to identify previously reported findings and recommendations related to the status review process. We conducted interviews with officials representing the NRCS and FSA national offices, as well as the Ft. Collins and Kansas City offices, to verify the methodologies used to sample land tracts for status reviews and record status review results.

We coordinated with GAO to determine the status of recommendations made in 2003. We also coordinated with the Office of the Chief Financial Officer to determine applicability of the improper payments reporting requirements for ineligible USDA benefits associated with adverse compliance determinations. We visited the NRCS State office in Phoenix, Arizona, to assess progress in developing techniques to identify substitute sample tracts when needed.

In conducting the review, we evaluated documentation to support the criteria established for data extractions used to select sample land tracts for status reviews in 2006 and 2007. We also obtained a copy of the 2007 data file extracted by FSA and provided to NRCS for use in selecting sample tracts for status reviews. The 2007 data file extracted by FSA included approximately six million tracts. The number of tracts subject to status reviews in 2002 through 2006 ranged from just under 18,000 tracts in 2002 to over 30,000 tracts in 2004. In addition, we summarized detailed reports from 2002 through 2006 which provided status review results by State and type of compliance determination, including variances granted. Over this timeframe,

the average rate of compliance was about 98 percent,<sup>5</sup> whereas noncompliance determinations averaged fewer than 2 percent. We also compiled the dollar amounts of USDA program benefits initially withheld as a result of status review noncompliance determinations for 1993 through 2005. We found that the dollar amount of program benefits subject to potential withholding totaled \$125 million; of which about \$103 million (83 percent) was subsequently restored through FSA's good-faith determinations.<sup>6</sup> From these analyses, we concluded that the rate of compliance violations identified by NRCS through status reviews is very low. In addition, we concluded that the rate of reinstated USDA program benefits based on FSA determinations of producer good faith is relatively high. In Phase II of this review, we intend to evaluate the effectiveness of the status reviews in ensuring producer compliance with the HELC and WC provisions, including possible factors that may have contributed to the high rate of reinstated USDA program benefits by FSA.

We performed fieldwork from June 2007 through February 2008. 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.

### **CONCLUSION AND REQUIRED AGENCY ACTION**

NRCS implemented key improvements regarding the sampling methodology and the process by which status review results are summarized, analyzed, and reported. Since this report presents no findings or recommendations, no further action is required by your office.

We appreciate the courtesies and cooperation extended to us by members of your staff during the review.

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<sup>5</sup> Includes compliance determinations averaging about 58 percent; granted variances averaging about 3 percent, and tracts for which no plan was required (no HEL present; wetlands present, but no violation reported), averaging about 37 percent. Figures compiled from status review results generated by NRCS' web-based application.

<sup>6</sup> We did not audit or validate the data or results of the 2002 – 2006 status reviews.

Informational copies of this report have been distributed to:

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| Chief, Natural Resources Conservation Service  |      |
| Attn: Agency Liaison Officer                   | (10) |
| Administrator, Farm Service Agency             |      |
| Attn: Agency Liaison Officer                   | (4)  |
| Government Accountability Office               | (1)  |
| Office of the Chief Financial Officer          |      |
| Director, Planning and Accountability Division | (1)  |