

GAO

Report to the Ranking Democratic
Member, Committee on Agriculture,
Nutrition, and Forestry, U.S. Senate

April 2003

AGRICULTURAL CONSERVATION

USDA Needs to Better Ensure Protection of Highly Erodible Cropland and Wetlands




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Highlights

Highlights of [GAO-03-418](#), a report to Ranking Democratic Member, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate

Why GAO Did This Study

Annually, over a billion tons of soil erodes from the nation's cropland, and thousands of other acres, including wetlands, are converted to new cropland. Soil erosion reduces the land's productivity and impairs water quality; drained wetlands reduce flood control. Under the 1985 Food Security Act, farmers risk losing federal farm payments if they do not apply conservation practices to reduce erosion or if they drain wetlands. Concerns about soil erosion and wetlands conversions continue, however, as do concerns about the U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service's implementation of these provisions. GAO reviewed field offices' and headquarters' implementation and enforcement of the 1985 act's conservation compliance provisions.

What GAO Recommends

GAO recommends that USDA

- increase oversight of field offices' compliance reviews to improve their accuracy and completeness,
- 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.

USDA reviewed a draft of this report and concurred with the recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-03-418.

To view the full report, including the scope and methodology, click on the link above. For more information, contact Lawrence J. Dyckman at (202) 512-3841 or dyckmanl@gao.gov.

AGRICULTURAL CONSERVATION

USDA Needs to Better Ensure Protection of Highly Erodible Cropland and Wetlands

What GAO Found

USDA's Natural Resources Conservation Service has not consistently implemented the 1985 Food Security Act's conservation provisions. Inconsistent implementation increases the possibility that some farmers receive federal farm payments although their soil erodes at higher rates than allowed or they convert wetlands to cropland.

According to GAO's nationwide survey, almost half of the Conservation Service's field offices do not implement the conservation provisions as required because they lack staff, management does not emphasize these provisions, or they are uncomfortable with their enforcement role. For example, field offices do not always find a farmer in violation for failing to implement an important practice, such as crop rotation, and do not always see whether a farmer has corrected the problem; they also do not always check for wetlands violations.

The Conservation Service's weak oversight of its field offices further impairs implementation of the provisions. In the process of selecting samples of cropland tracts to assess farmers' compliance, the Conservation Service disproportionately emphasizes tracts with little potential for noncompliance, such as permanent rangelands. This selection process leads to inflated compliance rates. The Conservation Service also has no automated system to promptly inform its field offices of the tracts selected for compliance reviews or to enable the offices to efficiently report their review results. Therefore, the field offices cannot conduct timely reviews—during critical erosion periods—and provide headquarters with up-to-date information.

Finally, the Farm Service Agency, the USDA agency responsible for withholding benefits for violations identified by the Conservation Service, often waives these noncompliance determinations without adequate justification. Without support from the Farm Service Agency, the Conservation Service's field staff have less incentive to issue violations.

Soil Erosion of Cropland by Water in 1999



Source: USDA's Natural Resources Conservation Service.

Contents

Letter		1
	Results in Brief	4
	Background	7
	Many NRCS Field Offices Are Not Implementing the Conservation Provisions As Required	14
	Weak Oversight Raises Doubts about NRCS's Assertion of a High Rate of Compliance	26
	Farm Service Agency Frequently Waives NRCS Noncompliance Decisions without Adequate Justification	35
	Conservation Provisions and Other Factors Have Significantly Reduced Soil Erosion and Wetlands Conversions, but Progress Has Slowed in Recent Years	38
	Conclusions	42
	Recommendations for Executive Action	43
	Agency Comments and Our Evaluation	43
Appendix I	U.S. Department of Agriculture's Conservation Compliance Review Process	47
Appendix II	Objectives, Scope, and Methodology	49
Appendix III	Results of NRCS's Compliance Reviews, by State, Crop Years 2000 and 2001	54
Appendix IV	USDA Benefits Denied Farmers Because of Conservation Compliance Violations, Crop Years 1993-2001	62
Appendix V	Results of Survey on the Implementation and Effectiveness of the Conservation Provisions	68

Appendix VI	Comments from the U.S. Department of Agriculture's Farm Service Agency	101
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Appendix VII	GAO Contacts and Staff Acknowledgments	105
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Related GAO Products		106
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Tables

Table 1: Results of NRCS's Compliance Reviews for Selected States for Combined Crop Years 2000-2001	21
Table 2: USDA Benefits Denied Farmers by the Farm Service Agency for Violations of Conservation Provisions, Crop Years 1993-2001	37
Table 3: Number of Field Offices Participating in Our Survey That Regularly Conduct Compliance Reviews and the Response Rate	51
Table 4: Results of NRCS's Compliance Reviews Showing Violations and Waivers by State, Crop Year 2000	54
Table 5: Results of NRCS's Compliance Reviews Showing Violations and Waivers by State, Crop Year 2001	58
Table 6: USDA Benefits Denied Farmers by the Farm Service Agency for Violations of Conservation Provisions, Nationwide, Crop Years 1993-2001	62
Table 7: USDA Benefits Denied Farmers by the Farm Service Agency for Violations of Conservation Provisions by State, Crop Years 1993-2001	63
Table 8: Reasons for Reinstating USDA Benefits by State, Crop Years 1993-2001	66

Figures

Figure 1: Tons of Erosion Due to Water and Wind on Cropland, 1997	11
Figure 2: Wetlands Acres on Cropland, 1992	14

Figure 3: Percentage of NRCS Field Offices Indicating They Do Not Always Review Tracts the Year After Granting Compliance Waivers, Nationwide and Selected States	16
Figure 4: Percentage of NRCS Field Offices Indicating They Do Not Always Issue a Violation When a Farmer Fails to Implement an Important Conservation Practice, Nationwide and Selected States	17
Figure 5: Percentage of NRCS Field Offices Indicating Primary Hindrances in Carrying Out Conservation Compliance Provisions	23

Abbreviations

FSA	Farm Service Agency
NRCS	Natural Resources Conservation Service
USDA	U.S. Department of Agriculture

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Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

April 21, 2003

The Honorable Tom Harkin
Ranking Democratic Member
Committee on Agriculture,
Nutrition, and Forestry
United States Senate

Dear Senator Harkin:

Every year more than a billion tons of soil erodes from the nation's cropland while thousands of other acres, including wetlands, are converted into new cropland.¹ Soil erosion gradually reduces the productivity of the land and impairs water quality by depositing sediment and other substances, such as pesticides and excess nutrients, into the nation's waters. When wetlands are drained, the ability to control floods and water quality can decrease, fish and wildlife habitat can be harmed, and recreational opportunities can be lost. To address these problems, the Food Security Act of 1985, as amended, (the 1985 act) requires farmers who participate in federal farm programs to reduce erosion on highly erodible cropland and, with certain exceptions, prohibits the conversion of wetlands to croplands.

The 1985 act requires farmers to conserve highly erodible land and wetlands by linking their conservation activities with eligibility for federal farm program benefits. These benefits total over \$20 billion annually from a number of commodity price support and loan programs. To be eligible, farmers must (1) have developed and implemented plans to apply approved conservation systems by 1995 to reduce erosion on highly erodible land they farmed in any year from 1981 through 1985 and (2) not have converted and farmed certain wetlands. Furthermore, farmers who plant on highly erodible land that they did not farm prior to the act's passage must apply a conservation system before planting (under the act's sodbuster provision). In general, farmers cannot plant on naturally occurring wetlands that were converted to cropland after the act's passage

¹ "Wetland" is a generic term used to describe a variety of wet habitats such as marshes, bogs, and swamps. In general, wetlands are characterized by the frequent and prolonged presence of water at or near the soil surface, soils that form under flooded or saturated conditions (hydric soils), and plants that are adapted to life in these types of soils (hydrophytes).

(under the act's swampbuster provision). The 1985 act's conservation provisions directed at controlling soil erosion cover about 104 million, or 28 percent, of the nation's 377 million acres of cropland in production.²

The U.S. Department of Agriculture (USDA) is responsible for administering these conservation provisions, enforcing farmers' compliance, providing them with technical assistance, and assisting them with funding to implement conservation measures. Most of these activities fall to the Department's Natural Resources Conservation Service (NRCS), although another USDA agency, the Farm Service Agency, is responsible for withholding farm program benefits for noncompliance. To determine farmers' compliance, each year NRCS draws a random sample of cropland units, known as tracts, for compliance reviews. These tracts vary in size from a few acres to several thousand acres. Nationally, 4.5 million tracts are potentially subject to the act's conservation provisions.

To conduct a compliance review, NRCS field staff visit a tract to determine whether the farmer who owns it is applying approved conservation practices and whether these practices are effectively reducing soil erosion. The staff also determine whether that tract had any wetlands and if it did, whether the farmer drained them. When NRCS officials find noncompliance, they can either waive or recommend penalties. NRCS may grant a waiver if the violation occurred because of personal hardship or adverse weather, or if it was minor or technical. A waiver continues a farmer's eligibility for farm program benefits for 12 months; the farmer is to take corrective measures during this time. If a waiver is not justified, NRCS staff are to find the farmer in noncompliance and notify the local Farm Service Agency office. This office then determines the amount of farm program benefits to be withheld. However, a farmer that NRCS finds in noncompliance can appeal this determination to the Farm Service Agency's field office. In response, that office may grant its own waiver if it believes the farmer acted in good faith—that is, the farmer did not intend

² The Nation's total cropland includes about 410 million acres. However, about 34 million of these acres are currently idled, having been enrolled in USDA's Conservation Reserve Program. This program provides cost-share and annual rental payments to establish permanent land cover in exchange for taking environmentally sensitive cropland out of production for 10 to 15 years. If land enrolled in the program is subsequently taken out of the program and farmed again, it is subject to the conservation provisions.

to violate the conservation provisions.³ Appendix I provides further information on USDA's compliance review process.

You asked us to evaluate USDA's implementation of the conservation compliance provisions of the 1985 act. Specifically, you asked us to determine (1) how well NRCS's field offices are carrying out these provisions, (2) how effectively NRCS oversees its field offices' efforts to carry out these provisions, (3) how often the Farm Service Agency waives NRCS's noncompliance determinations, and (4) to what extent these conservation provisions have helped to reduce soil erosion and the loss of wetlands.

To conduct this work, we examined NRCS's national database on the results of compliance reviews for 1998 through 2001 to identify unusual patterns in compliance enforcement. Automated data for these reviews were not available for prior years. We also surveyed the official—usually the district conservationist—responsible for compliance reviews in each of NRCS's approximately 2,500 field offices to obtain information on that official's understanding and implementation of the conservation provisions, as well as the official's views on the effectiveness of these provisions. In addition to responding to our survey questions, many of these officials also provided us with written comments. We received responses from almost 80 percent of the officials surveyed. We also conducted work in 20 NRCS field offices located in 19 counties in 5 states

³ In this report, we use the term "waiver" to refer to variances and exemptions given by either NRCS or the Farm Service Agency. An NRCS variance continues a farmer's eligibility for federal farm program benefits when the farmer is unable to apply a conservation practice because of severe or unusual conditions related to weather, disease, or pests; because the farmer experienced an extreme personal hardship or unusual occurrence, such as illness or death; or because the deficiency is minor and technical in nature. An NRCS exemption maintains a farmer's eligibility for benefits when a violation is identified while NRCS staff are providing on-site technical assistance. A Farm Service Agency variance continues a farmer's eligibility when the farmer is unable to implement a conservation system because doing so would cause undue economic hardship. A Farm Service Agency exemption maintains a farmer's eligibility when the farmer acted in good faith and without intent to violate the conservation provisions or when a landlord prevents a tenant farmer from implementing an approved conservation system. Similarly, in cases in which the tenant farmer's violation is not attributable to actions of the landlord, the landlord may receive an exemption that continues the landlord's eligibility for benefits regarding other tracts. The granting of a variance or an exemption by NRCS or the Farm Service Agency does not negate NRCS's noncompliance determination. The farmer involved is still considered to be in violation of the conservation provisions and is expected to take corrective actions within 12 months, except in the case of NRCS variances given for severe or unusual conditions.

(Arkansas, Colorado, Nebraska, North Dakota, and Texas) to review documentation of compliance decisions, including waivers, to determine the basis for these decisions. We selected these field offices on the basis of such criteria as the relative amount of land covered by the office that is subject to the 1985 act's conservation provisions; geographic dispersion; and apparent anomalies in USDA's data related to compliance checks, waivers, and penalties assessed. In addition, we examined the Farm Service Agency's database on violations and benefits withheld or waivers granted for crop years 1993 through 2001 to determine trends in assessing penalties for noncompliance, and we spoke with Farm Service Agency field and headquarters staff regarding the reasons for waiving NRCS noncompliance determinations.⁴ Finally, regarding the environmental impacts of the conservation provisions, we reviewed the results of USDA's National Resources Inventory and other relevant studies and spoke with officials of various farm and conservation groups.

We conducted our review from April 2002 through February 2003 in accordance with generally accepted government auditing standards. Appendix II provides additional information on our scope and methodology. Appendix V summarizes the results of our survey. In addition, survey results stratified by state are included in a special publication entitled *Agricultural Conservation: Survey Results on USDA's Implementation of Food Security Act Compliance Provisions (GAO-03-492SP)*, which is available on the Internet at <http://www.gao.gov/cgi-bin/getrpt?gao-03-492SP>.

Results in Brief

Almost half of NRCS's field offices are not implementing one or more aspects of the conservation provisions of the 1985 act as required. Inconsistent implementation increases the likelihood that some farmers are still receiving federal farm payments even though they let soil erode at higher rates than allowed or convert wetlands to cropland. Specifically, according to our survey, field offices do not always follow all required procedures, such as (1) checking for wetlands violations during a compliance review (36 percent), (2) revisiting farms granted a waiver the previous year to determine whether the owner has taken measures to achieve compliance (16 percent), or (3) finding a farmer in violation for failing to implement an important conservation practice (19 percent). Our field office visits revealed a similar pattern. For example, in 14 of the 20

⁴ A crop year is the calendar year in which a crop is produced.

offices we visited, NRCS staff did not always conduct compliance reviews when cropland was most vulnerable to erosion, as agency guidelines require, such as when spring planting occurs; at this time, crop residue is at its lowest level and rains may be heavy. A number of factors—such as resource constraints, a de-emphasis on the conservation compliance provisions relative to other work, and a reluctance to assume the enforcement role—may be contributing to the implementation problems identified. These problems are compounded by a lack of training and unclear policy guidance concerning the implementation of the provisions. Finally, our analysis of NRCS's database on the results of compliance reviews underscores the variation in field offices' enforcement among the states: the number of waivers and violations issued as a percentage of total compliance reviews ranged from none to as much as 15 percent during crop years 2000 and 2001. Most reported violations occurred in a relatively few states.

NRCS does not effectively oversee its field offices' implementation of the conservation provisions, among other things, calling into doubt its claim that 98 percent of the tracts reviewed are in compliance with the act's conservation provisions. First, NRCS's process for selecting tracts for compliance reviews disproportionately emphasizes tracts with little or no potential for noncompliance, such as permanent rangelands. Such tracts account for about 20 percent of the tracts selected annually. Second, NRCS does not have an automated system for promptly informing its field offices of the tracts selected for compliance reviews and for enabling the field offices to efficiently report the results of these reviews. As a consequence, in many cases the field offices do not have the information on the tracts to be reviewed until after the critical erosion control period has passed; the reviews should have been done during this period. Furthermore, without such a system, NRCS lacks accurate, up-to-date information for oversight to evaluate the field offices' implementation of the conservation compliance provisions. Third, NRCS does not consistently collect and analyze the results of the field offices' compliance reviews to identify unusual enforcement patterns across regions and states and over time. For example, until our review NRCS was not aware that 30 of the 50 "good faith" waivers granted nationally in 2000 occurred in just one state. Similarly, NRCS has not questioned the wide variation in other nationwide data on noncompliance determinations and waivers granted, which also suggests inconsistencies across the states and field offices in how the conservation provisions are being implemented. These inconsistencies are borne out by our survey results. Finally, USDA's Office of Inspector General has recently reported that improvements in NRCS's implementation of the conservation provisions are needed to

strengthen the agency's ability to provide accurate and reliable assessments of farmers' compliance. Importantly, these improvements include the need for NRCS to refrain from issuing waivers that are not warranted.

In response to farmers' appeals, the Farm Service Agency waived NRCS's noncompliance determinations in 4,948 of 8,118 cases in which farmers were cited with violations, or about 61 percent, from 1993 through 2001. Furthermore, because of these waivers, the Farm Service Agency reinstated about \$40.4 million of the \$59.6 million that was to be withheld for noncompliance determinations. These appeals were considered and ruled upon by local Farm Service Agency county committees. Because committees generally consist of farmers elected by other farmers in the county, some NRCS staff and conservation groups believe that the committee members are predisposed to approve farmers' appeals so as not to penalize a neighbor's eligibility for farm program benefits. In this regard, about one-third of NRCS's field offices indicated that the Farm Service Agency did not adequately justify its waiver decisions. Our field office visits generally reinforced this assertion. In the five offices we visited that had found farmers in violation of the conservation provisions, NRCS staff indicated that the Farm Service Agency's waivers were not adequately justified. Furthermore, the minutes of the Farm Service Agency's county committee meetings and other relevant records did not clearly describe the basis for waiving NRCS's noncompliance determinations in these cases. Without support from the Farm Service Agency, NRCS field office staff said that they have less incentive to find farmers out of compliance when warranted.

According to USDA, conservation groups, and farm organizations, in the 17 years since the 1985 act, its conservation provisions have contributed to substantial reductions in soil erosion and wetlands conversions. For example, according to USDA data, soil erosion on land subject to these provisions declined by about 35 percent from 1982 through 1997. Wetlands conversions for agricultural uses declined even more sharply, from 235,000 acres per year before 1985 to 27,000 acres per year from 1992 through 1997. However, because other factors have also influenced farmers' behavior, quantifying the impact of the conservation provisions is difficult. These other factors include economic incentives for agricultural producers to use new farming techniques and equipment that are more conserving of land and water resources. Despite the improvements made, concerns remain about continued high rates of soil erosion and wetlands losses in some regions. Specifically, although annual soil erosion on all cropland has declined to 5 tons per acre, annual soil erosion on about 27

percent of the land subject to the conservation compliance provisions still averages 24 tons per acre. Furthermore, USDA and other agricultural experts indicate that reductions in soil erosion have leveled off in recent years and that in some areas of the country soil erosion has even increased. In this regard, over 80 percent of NRCS field offices we surveyed reported that further reductions in soil erosion are feasible. Finally, the conservation provisions may be only marginally effective in protecting seasonal wetlands because USDA generally identifies these wetlands during the summer months when these lands are less likely to be saturated or exhibit other wetlands characteristics.

In light of the problems we have noted with NRCS's implementation of the 1985 act's conservation provisions, as well as continuing concerns related to soil erosion and wetlands conversion, we are making recommendations to USDA to improve the quality of NRCS's compliance reviews and the Farm Service Agency's documentation of its decisions regarding farmers' appeals of noncompliance determinations. In commenting on a draft of this report, NRCS and the Farm Service Agency concurred with the recommendations. The agencies also generally agreed with the report's findings, although NRCS stated that the report focuses too much on problems with the agency's implementation of the conservation compliance provisions and not enough on the provisions' positive accomplishments in reducing soil erosion and wetlands conversions. NRCS provided oral comments; the Farm Service Agency provided written comments, which are presented in appendix VI. The agencies also provided technical comments, which we have incorporated as appropriate.

Background

Legislative Requirements

The Food Security Act of 1985 introduced three conservation provisions to address environmental problems associated with highly erodible land and wetlands.⁵ Under the act, farmers must apply conservation systems to

⁵ To protect highly erodible land, the 1985 act also introduced the Conservation Reserve Program.

these lands or risk losing benefits.⁶ First, under the “conservation compliance” provision, farmers must apply conservation systems to lands cropped in any year from 1981 through 1985 to substantially reduce soil erosion. Second, the “sodbuster” provision applies to highly erodible land not farmed prior to the act’s passage. For these lands, farmers must apply a conservation system before planting and must control soil erosion to a higher level than required under conservation compliance. Third, under the “swampbuster” provision, farmers are generally prohibited from converting wetlands to cropland. For the purpose of this report, we use the term “conservation compliance” to include all three conservation provisions of the 1985 act.

The Food, Agriculture, Conservation, and Trade Act of 1990 modified the conservation compliance provisions, giving USDA discretion to determine that a farmer, although in violation, acted in good faith—that is, without intending to violate the provisions.⁷ In such cases, USDA may reduce the farmer’s benefits but the farmer would remain eligible to participate in federal farm programs if the farmer corrects the violation.⁸ In addition, the act revised the swampbuster provision to allow a farmer to retain eligibility for farm program benefits if the farmer mitigates a violation by restoring a wetland converted prior to the 1985 act.

The Federal Agriculture Improvement and Reform Act of 1996 mandated a variety of changes to help farmers comply with the provisions.⁹ Among other things, the act allowed flexibility in developing and implementing conservation systems, and it allowed farmers to self-certify compliance

⁶ For the purpose of this report, we use the term “conservation plan” interchangeably with “conservation system.” However, strictly speaking, a conservation plan is generally the document that describes a conservation system. In turn, a conservation system is a combination of one or more conservation practices. These practices include structural or vegetative measures or management techniques used to enhance, protect, or manage natural resources, such as soil.

⁷ The 1990 act also authorized the Wetlands Reserve Program. This program offers cost-share assistance for wetlands restoration and the purchase of permanent or 30-year easements for the agricultural value of the land taken out of production.

⁸ The 1990 act authorized graduated reductions in program benefits of not less than \$500 nor more than \$5,000 for a violation of conservation compliance or sodbuster provisions, or not less than \$750 nor more than \$10,000 for a violation of the swampbuster provision.

⁹ The 1996 act also authorized the Environmental Quality Incentives Program to provide cost-share and incentive payments, to assist farmers in implementing conservation practices on their land for 5 to 10 years.

with their conservation systems.¹⁰ The act also required USDA field staff who provide technical assistance to a farmer and observe a potential compliance deficiency on the farmer's tract to, within 45 days, provide the farmer with specific information on how to correct the deficiency. If the farmer agrees to correct the deficiency and signs an approved conservation plan, the farmer is given a waiver. However, if the farmer does not implement corrective action within 12 months after the waiver, USDA will schedule the tract for a compliance review. In addition, the act provided farmers with more flexibility to offset wetlands losses through mitigation, including the enhancement of an existing wetland or the creation of a new wetland. At the same time, the act made easier the "good faith" provisions that the 1990 act had previously added to the Food Security Act of 1985. Finally, the 1996 act removed crop insurance from the list of benefits that can be denied to farmers who violate the conservation provisions.¹¹

The 2002 Farm Security and Rural Investment Act did not change the conservation compliance provisions.¹² However, the act provides that the Secretary of Agriculture's authority to make noncompliance determinations may not be delegated to any private person or entity.

¹⁰ For highly erodible land not farmed from 1981 through 1985, under the sodbuster provisions, conservation systems must prevent a substantial increase in erosion, defined as 25 percent of potential erodibility, and hold soil erosion to no more than the rate at which soil can maintain continued productivity. For highly erodible land farmed at any time from 1981 through 1985, under the conservation compliance provisions, conservation systems must substantially reduce soil erosion, defined as 75 percent of the potential erodibility and not more than twice the rate at which soil can maintain continued productivity.

¹¹ Crop insurance is available for a fee (premium) to the producers of most crops as protection against significant yield losses from natural hazards, such as drought.

¹² The 2002 act increased the enrollment ceiling for two of the incentive-based conservation programs, namely the Conservation Reserve Program and the Wetlands Reserve Program. It also increased funding for several other incentive-based programs, including the Environmental Quality Incentives Program. Finally, this act created two new incentive-based programs, the Conservation Security Program and the Grasslands Reserve Program. These latter programs are not yet operational.

Implementation of the Conservation Compliance Provisions

NRCS monitors farmers' implementation of the conservation compliance provisions largely through compliance reviews.¹³ In addition to the random sample of tracts that NRCS draws annually for these reviews, field offices select other tracts based on referrals from other agencies, farmers who receive farm loans, whistleblower complaints, potential violations observed by NRCS employees when providing technical assistance, and tracts that maintained eligibility due to prior year waivers. In conducting these reviews, NRCS staff visit a land tract to determine if the relevant farmer is following the conservation system, including specific conservation practices, developed and approved for that tract. As discussed, the 1985 act requires farmers to develop these systems in order to remain eligible for farm program benefits.

In general, conservation systems are designed to be economically viable for a farmer while achieving substantial reductions in soil erosion. These systems are composed of one or more conservation practices. Some commonly used conservation practices include

- *conservation crop rotation*—planting low-residue crops such as soybeans in one year, followed by a high residue crop, such as corn in the following year on the same field, in order to generate an average layer of residue from year to year (used on 81 percent of highly erodible cropland);
- *conservation tillage*—allowing the crop residue to stay on top of the field, rather than being plowed under when planting begins (used on 33 percent of highly erodible cropland);
- *terraces*—creating an embankment or ridge (a terrace) at a right angle to sloping land in order to allow water to soak into the soil rather than to move down the slope, taking the soil with it (used on 13 percent of highly erodible cropland); and
- *grassed waterways*—creating a broad and shallow depression, usually below a terraced area, that is planted with grasses to mitigate erosion by slowing the flow of runoff, holding a bank, and filtering out soil particles (used on 9 percent of highly erodible cropland).

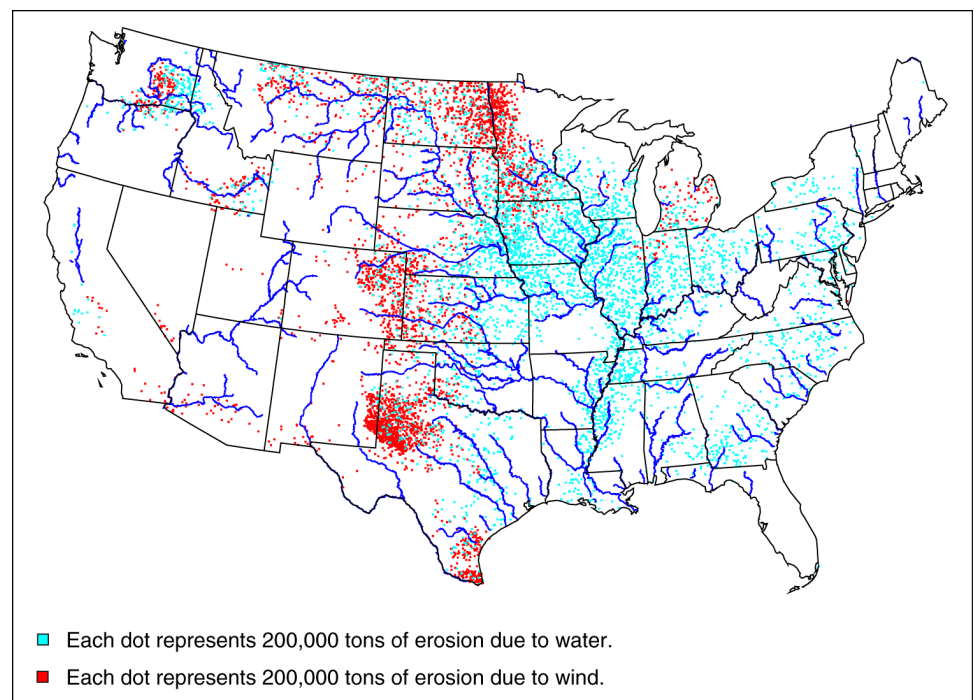
Regional Erosion Concerns

The adoption of a particular conservation practice varies with climate, topography, soils, predominant crops, and preexisting production practices. For example, local environmental conditions in eastern

¹³ NRCS is a decentralized agency; its programs are implemented by its state and local offices (covering one or more counties), often in partnership with state conservation agencies and local conservation districts.

Nebraska, and western Texas require different conservation practices. Eastern Nebraska primarily produces corn and soybeans and has a higher average rainfall and a more varied topography than western Texas. Thus, to control soil erosion from water, farmers in eastern Nebraska use a larger number of conservation practices—most frequently conservation crop rotation, conservation tillage, terraces, and grassed waterways. In western Texas, wheat and cotton are the predominant crops. In this area, where soil erosion from wind is the primary concern, most conservation practices consist of either applying conservation tillage or creating ridges on the field (roughening the surface) to prevent the soil from blowing away. Figure 1 shows areas of the country with cropland that has a high propensity for soil erosion due to water and wind.

Figure 1: Tons of Erosion Due to Water and Wind on Cropland, 1997



Source: NRCS's National Resources Inventory, 1997.

Note: Map includes land enrolled in the Conservation Reserve Program.

According to the U.S. Environmental Protection Agency, soil erosion is a leading cause of water pollution. Soil deposits in streams, rivers, drainageways, and lakes degrade water quality by increasing turbidity and transporting attached nutrients, pesticides, pathogens, and toxic

substances. In addition, soil erosion due to wind contributes to particulate matter in the air, which can cause respiratory illness and property damage.

Wetlands Conversion Concerns

Of the estimated 220 million acres of marshes, bogs, swamps, and other wetlands in the contiguous United States during colonial times, over half have disappeared, and some remaining wetlands have been degraded. This decrease is due, primarily, to agricultural activities and development; wetlands were once regarded as unimportant areas to be filled or drained for these purposes. Pressure to use wetlands for such purposes continues, but in recent times, wetlands have become valued for a variety of ecological functions that they perform, including

- providing vital habitat for wildlife and waterfowl, including about half of the threatened and endangered species;
- providing spawning grounds for commercially and recreationally valuable fish and shellfish;
- providing flood control by slowing down and absorbing excess water during storms;
- maintaining water quality by filtering out pollutants before they enter streams, lakes, and oceans; and
- protecting coastal and upland areas from erosion.

Recognizing the value of wetlands, in 1989, the administration set a national goal to protect against additional loss. Specifically, the first Bush administration established the national goal of “no net loss” of wetlands. Subsequently, the Clinton administration expanded the goal to achieve a net increase of 100,000 acres of wetlands per year by 2005.

In January 2001, the U.S. Supreme Court ruled that the U.S. Army Corps of Engineers (Corps) has no authority under the Clean Water Act to regulate certain isolated, intrastate, nonnavigable waters, including some wetlands.¹⁴ However, even if a wetland is no longer within federal jurisdiction under the Clean Water Act, it may still be protected under other federal or state laws. For example, in a January 2003 Advance Notice of Proposed Rulemaking, the Environmental Protection Agency

¹⁴ *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001). The Court specifically addressed Clean Water Act jurisdiction over isolated waters that are intrastate and nonnavigable where the sole basis for asserting such jurisdiction is the actual or potential use of the waters as habitat for migratory birds. The Environmental Protection Agency and the Corps of Engineers are considering the implications of the ruling for Clean Water Act jurisdiction over other isolated, intrastate, nonnavigable waters. See 68 *Fed. Reg.* 1991 (Jan. 15, 2003).

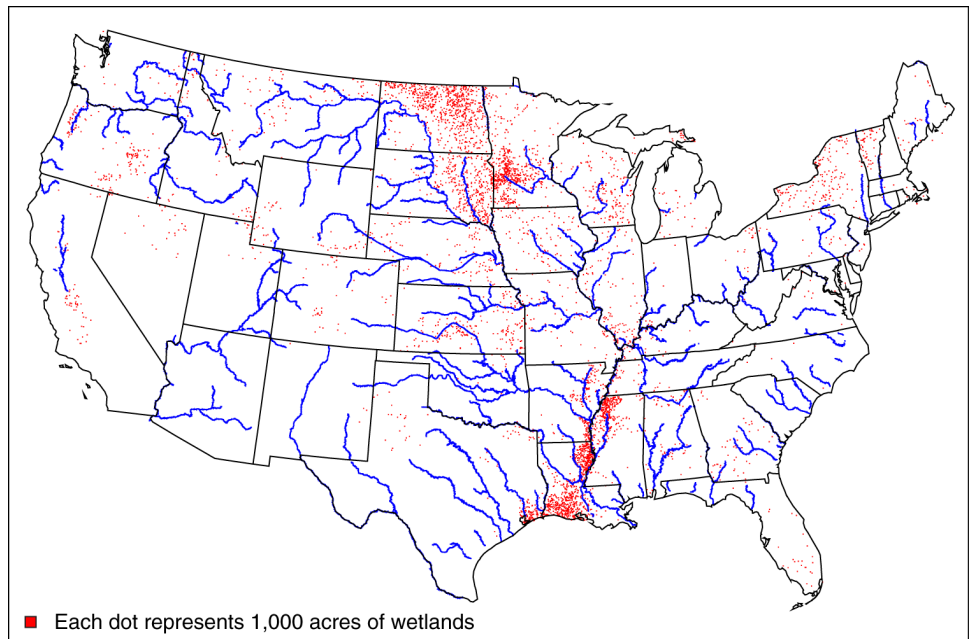
and the Corps stated that the federal government remains committed to wetlands protection through the Food Security Act's swampbuster requirements, among other programs.¹⁵ In this regard, NRCS officials indicated to us that they do not anticipate any change in how they implement the swampbuster provisions; in part, these provisions are directed at the protection of isolated, intrastate wetlands that occur on cropland, including "prairie potholes" in the upper Midwest.¹⁶

Figure 2 shows areas of the country with wetlands on cropland, including permanent, seasonal, and prior-converted wetlands (cropped wetlands drained or filled prior to the 1985 act's conservation compliance provisions).

¹⁵ 68 *Fed. Reg.* 1991, 1995 (Jan. 15, 2003).

¹⁶ Prairie potholes are freshwater depressions and marshes, often less than 2 feet deep and 1 acre in size, that were created by glaciers thousands of years ago. These wetlands are used as breeding areas for migratory waterfowl. In the United States, the Prairie Pothole Region encompasses parts of Montana, North Dakota, South Dakota, Iowa, and Minnesota. Less than half of the original 20 million acres of these prairie wetlands remain.

Figure 2: Wetlands Acres on Cropland, 1992



Source: NRCS's National Resources Inventory, 1997.

Many NRCS Field Offices Are Not Implementing the Conservation Provisions As Required

According to our survey, almost half of NRCS field offices do not follow all required procedures in implementing the conservation compliance provisions, including, for example, checking for wetlands violations during a compliance review and finding a farmer in violation when the farmer fails to implement an important conservation practice. The inconsistent implementation of the conservation provisions increases the likelihood that some farmers are still receiving federal farm payments even though they let soil erode at higher rates than allowed or convert wetlands to cropland. Our field office visits revealed similar problems. Furthermore, the field offices may not be consistently enforcing the provisions, according to our analysis of NRCS's database on the results of compliance reviews: the number of waivers and violations issued as a percentage of total compliance reviews varied widely from state to state. Problems in the field offices' implementation of the conservation compliance provisions occur for a number of reasons, such as the lack of periodic training on how to conduct these reviews.

Many NRCS Field Offices Do Not Follow All Required Steps in Assessing Compliance

Our survey results indicate that 48 percent, or 903, of the field offices, are not implementing one or more provisions for conducting compliance reviews included in NRCS's *National Food Security Act Manual* or other related guidance, as shown below:

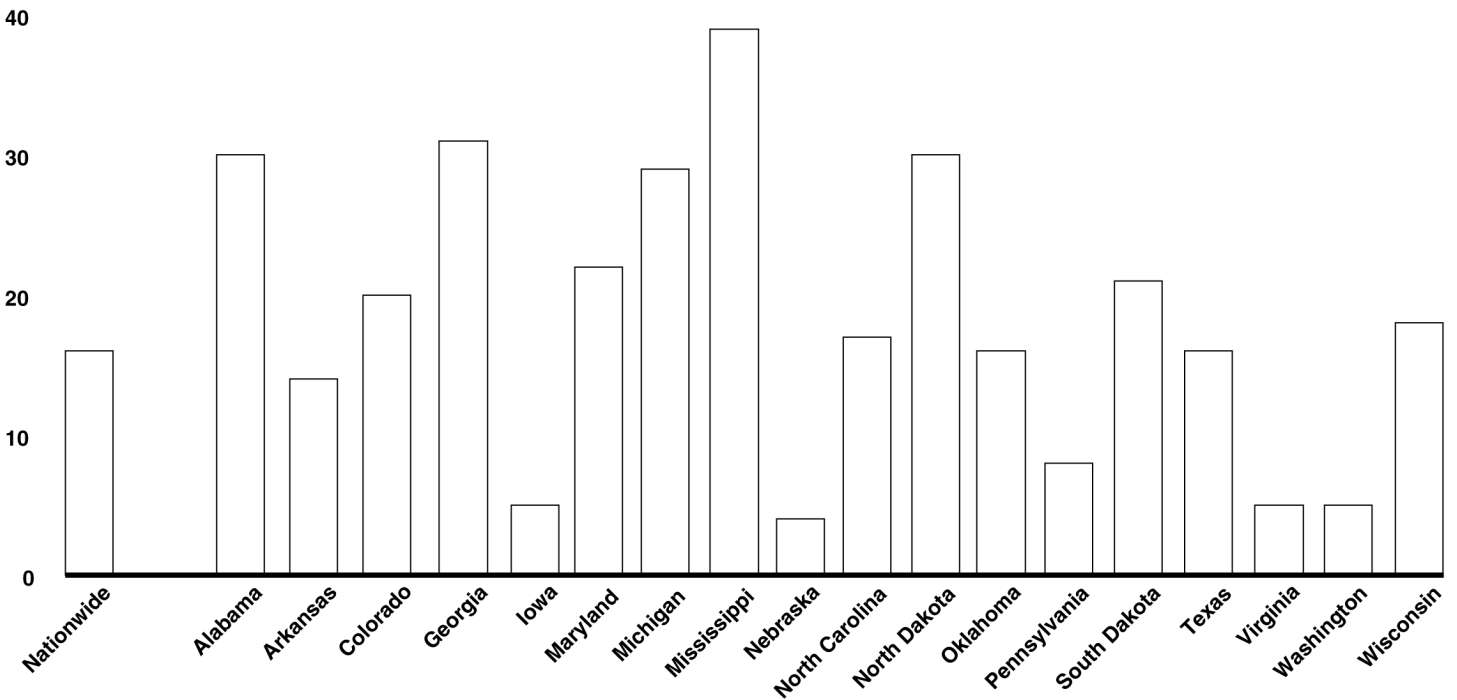
- Nationwide, more than one-third, or 670, of the field offices, on average, do not check for wetlands violations when conducting compliance reviews. The lack of attention to potential wetlands violations varied by state, ranging from 15 percent to 63 percent of the field offices in each state; 18 states exceeded the national average of 36 percent.
- Nationwide, 16 percent, or 250, of the field offices do not always review tracts during the year after granting a compliance waiver to determine whether the farmer had taken measures to achieve compliance. The extent to which field offices do not follow this procedure varied considerably from state to state.

Figure 3 shows that the range varied from 4 to 39 percent for the selected states.¹⁷

¹⁷ We selected these states on the basis of such criteria as the amount of land that is subject to the conservation provisions and geographic dispersion.

Figure 3: Percentage of NRCS Field Offices Indicating They Do Not Always Review Tracts the Year After Granting Compliance Waivers, Nationwide and Selected States

50 Percentage of field offices



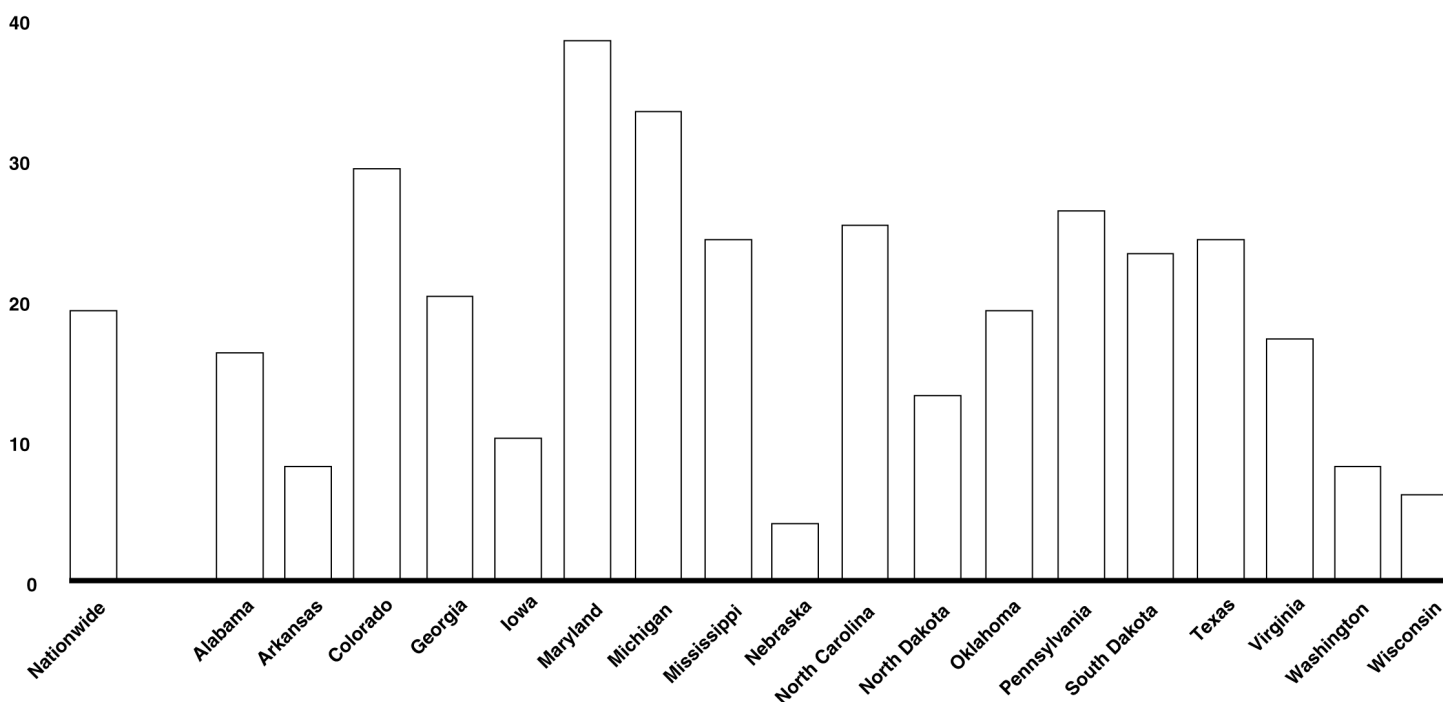
Source: GAO.

Note: GAO's survey results.

- Nationwide, about 19 percent, or 324, of the NRCS field offices do not always find a farmer in violation when the farmer fails to implement an important conservation practice, as required by NRCS guidance. Figure 4 shows that from 4 percent to 38 percent of the field offices in selected states failed to cite farmers for a major violation.

Figure 4: Percentage of NRCS Field Offices Indicating They Do Not Always Issue a Violation When a Farmer Fails to Implement an Important Conservation Practice, Nationwide and Selected States

50 Percentage of field offices



Source: GAO.

Note: GAO's survey results.

Our field office visits revealed similar problems as shown below:

- In 14 of the 20 offices, staff did not always conduct compliance reviews during critical soil erosion periods as required by NRCS's guidance; during these periods, the soil is most susceptible to water or wind erosion. Critical periods may include, for example, April, May, and June—when planting occurs, crop residue is at its lowest level, and rainfalls may be heavy. For example, in one office in Texas, none of the 25 compliance reviews done during the 4-year period we examined were conducted during the spring—the critical water erosion period. In another office in Texas, none of the 11 compliance reviews done in 2001 that we reviewed were conducted during the critical wind erosion period—January through April. According to staff in the 14 offices, NRCS headquarters and state

office delays in providing the lists of randomly selected tracts for compliance reviews generally prohibited field office staff from conducting the reviews within critical erosion periods.¹⁸

- In five Nebraska field offices, staff improperly granted waivers in 28 of the 60 minor or technical waiver cases we reviewed. According to NRCS guidance, staff may grant minor or technical waivers for conservation deficiencies if these deficiencies have little impact on erosion control. However, these 28 waivers were granted to farmers who had failed to implement a major soil-conserving practice, such as maintaining terraces or sufficient crop residue, thereby potentially allowing severe water-related soil erosion to occur.¹⁹
- In one Texas field office, NRCS staff did not properly conduct a compliance review on a 9,878-acre tract in 2000. After the owner sold 166 acres of the tract for a commercial cattle-feeding operation in 1999, the Farm Service Agency assigned new tract numbers to both the 166 acres and the remaining 9,712 acres of the original tract in order to ensure proper accounting for farm benefits. Nevertheless, NRCS requires that a compliance review be conducted on all land included under the original tract number. However, staff in the field office reviewed the 166-acre tract only, not the other 9,712 acres, and yet reported the original tract as being in compliance.
- Staff in one Colorado field office—responsible for conducting compliance reviews on about 40 tracts from 1998 through 2001—could find no evidence that these reviews had been done after a thorough search of their physical and electronic records. In contrast, these officials were able to produce documentation for reviews conducted in the years prior to 1998. Officials in this office indicated that it is doubtful that the reviews for 1998 through 2001 were done. Nevertheless, this office had reported that all the tracts were in compliance during these years.

We also identified other types of situations in which field staff missed opportunities to identify and correct noncompliance. First, according to NRCS guidance, the agency's field staff are required to report potential instances of noncompliance identified when they visit a farm to provide conservation technical assistance. In these cases, the guidance requires

¹⁸ In September 2002, USDA's Office of Inspector General reported a similar problem in three Kansas field offices. See U.S. Department of Agriculture, Office of Inspector General, *Natural Resources Conservation Service Compliance with Highly Erodible Land Provisions*, Audit Report No. 10099-8-KC (Washington, D.C.: Sept. 10, 2002).

¹⁹ In one of these offices, field staff granted the minor and technical waiver in 2 or more consecutive years for 16 of the tracts.

that the staff issue a 12-month waiver to allow the farmer time to take corrective measures, while continuing the farmer's eligibility for farm program benefits.²⁰ However, fewer than 40 percent of NRCS field offices reported that supervisors either generally or strongly encouraged them to identify tracts in noncompliance when providing technical assistance. During crop years 2000 and 2001, of the approximately 2.1 million technical assistance visits NRCS made, it identified deficiencies and issued waivers in only 22 instances. According to NRCS headquarters and field staff, the agency's field staff are reluctant to identify deficiencies and issue waivers because they believe doing so would deter farmers from seeking technical assistance in the future; others cited NRCS guidance as unclear on when and how to issue a waiver for a deficiency discovered during technical assistance visits.

Second, NRCS field offices do not always include a sample of tracts related to farmers who participate in the Farm Service Agency's Farm Loan Program in their annual compliance reviews, as NRCS guidance requires.²¹ According to NRCS, in addition to the headquarters list of tracts selected for compliance reviews that includes farmers who receive farm program benefits and produce crops on highly erodible land, the field offices are to conduct compliance reviews on a 5 percent sample of the loan program participants who are producing crops on highly erodible land. This 5 percent sample is taken to ensure oversight over farmers who participate in the loan program but do not otherwise receive farm program benefits. However, we found that in half of the 20 NRCS offices we visited, NRCS and Farm Service Agency field staff did not ensure that they included this sample of borrowers in each of the years we examined.

Finally, NRCS field staff do not always maintain documentation supporting their decisions and do not always correctly report the results of their compliance reviews as required by the *National Food Security Act Manual*. For example, in 7 of the 20 offices we visited, the compliance review case file contained a worksheet documenting the decision but no evidence to show when the review was conducted, whether crop residue measurements were taken, or what on-site conditions were observed.

²⁰ See NRCS, *National Food Security Act Manual*, third edition.

²¹ See NRCS, *National Food Security Act Manual*, third edition, and the Farm Service Agency's Farm Loan Program handbooks.

Significant Variation in the Number of Waivers and Violations May Indicate Inconsistent Enforcement among States

During crop years 2000 and 2001, 5 percent of all compliance reviews resulted in waivers or violations, according to NRCS's database on the results of compliance reviews.²² However, as table 1 shows, this percentage varied significantly from state to state. For example, four states—Iowa, Nebraska, North Dakota, and Oklahoma—experienced significantly more waivers and violations as a percentage of reviews conducted than the national average, while 10 states—Alabama, Arkansas, Colorado, Georgia, Maryland, Michigan, North Carolina, South Dakota, Texas, and Virginia—experienced fewer. This variation suggests that NRCS's field offices are not consistently enforcing the conservation compliance provisions. Similarly, of the 1,810 waivers and violations issued during crop years 2000 and 2001, more than 80 percent occurred in only 10 states—Illinois, Iowa, Minnesota, Nebraska, New Mexico, North Dakota, Oklahoma, Pennsylvania, Vermont, and Wisconsin; these 10 states represent only 36 percent of all reviews, suggesting again a lack of enforcement consistency across states.

²² Detailed information regarding waivers and violations was unavailable for crop years 1998 and 1999 because NRCS did not collect these data.

Table 1: Results of NRCS's Compliance Reviews for Selected States for Combined Crop Years 2000-2001

State	Tracts reviewed for compliance	Tracts with NRCS waivers	Tracts with violations	Total waivers and violations	Waivers and violations as a percentage of tracts reviewed
Alabama	559	1	6	7	1.3
Arkansas	588	2	5	7	1.2
Colorado	883	15	4	19	2.2
Georgia	691	7	2	9	1.3
Iowa	2,942	283	130	413	14.0
Maryland	235	1	0	1	0.4
Michigan	409	1	2	3	0.7
Mississippi	849	33	0	33	3.9
Nebraska	1,907	158	115	273	14.3
North Carolina	1,229	14	5	19	1.5
North Dakota	1,659	11	246	257	15.5
Oklahoma	706	74	2	76	10.8
Pennsylvania	374	14	7	21	5.6
South Dakota	906	2	2	4	0.4
Texas	1,923	17	3	20	1.0
Virginia	376	5	1	6	1.6
Washington	400	5	14	19	4.8
Wisconsin	1,460	59	30	89	6.1
Remaining 32 states	16,871	306	228	534	3.2
Total	34,967^a	1,008^b	802^c	1,810	5.2

Source: NRCS.

Note: GAO's analysis of NRCS's data.

^aTotal compliance reviews include tracts of 13,025 and 13,544 in 2000 and 2001, respectively, that were randomly selected by NRCS headquarters. The total also includes tracts added by NRCS field offices based on referrals from other agencies (e.g., tracts owned by employees of other USDA agencies), whistleblower complaints, tracts owned by Farm Loan Program participants, and tracts that maintained eligibility for farm benefits because of prior year waivers. These additional tracts numbered 4,234 and 4,164 in 2000 and 2001, respectively.

^b"Waivers" refers to NRCS variances and exemptions. An NRCS waiver does not change the fact that the agency has made a noncompliance determination. The farmer receiving the waiver is still considered to have committed a violation that must be corrected, unless the waiver was given for severe or unusual conditions related to weather, disease or pests.

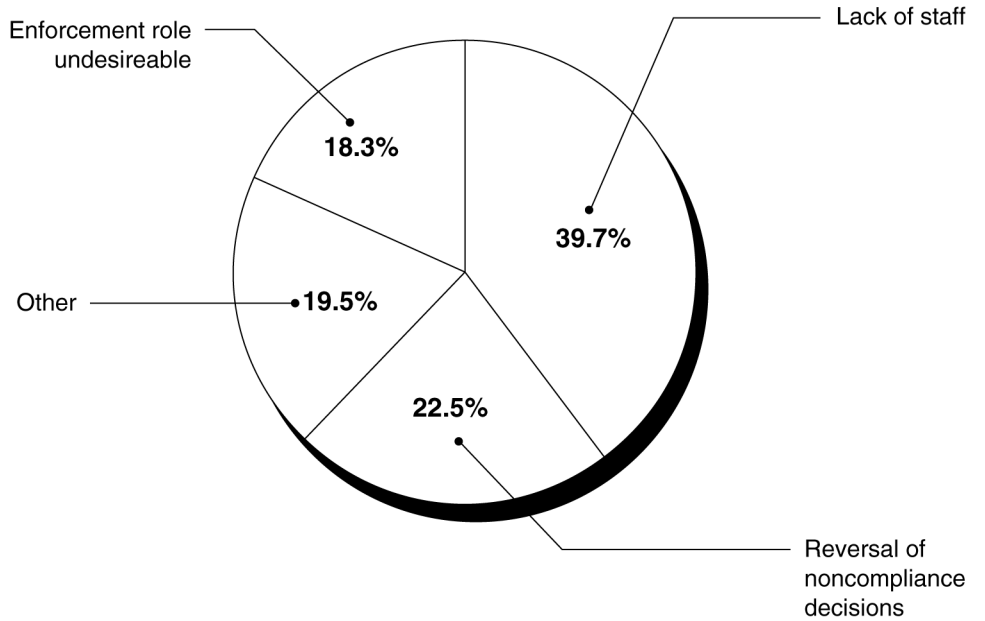
^cTotal tracts with violations largely reflect NRCS's preliminary noncompliance determinations, as of the date these data were compiled. Many of these determinations were subsequently reversed by NRCS--through granting variances or exemptions--on appeal from the affected farmers. Because NRCS's data on tracts with violations reflect a number of preliminary determinations that were subsequently reversed by NRCS, the total number of violations reported for crop years 2000-2001 in this table is greater than the total number shown for these years in Table 2. This latter table, based on Farm Service Agency data, shows the actual number of tracts with violations referred by NRCS to the Farm Service Agency for action.

The Soil and Water Conservation Society and the Sustainable Agriculture Coalition—two conservation groups—maintain that the wide state-to-state differences may indicate inconsistent application or differing interpretations of conservation compliance procedures. We also hold this view. These groups also noted that some of these differences may be explained by the differences in topography, local weather conditions, and farmers’ ability to comply with the conservation provisions. More detailed information on the results of NRCS’s compliance reviews is contained in appendix III.

Several Factors, Including Lack of Training, Contribute to Problems in Implementing Conservation Compliance

Our survey and field office visits identified key reasons for the problems in implementing the conservation compliance provisions. As figure 5 shows, on the basis of our survey results, field offices reported lack of staff, reversal of noncompliance decisions, and unwillingness to assume an enforcement role as the primary hindrances in carrying out the provisions.

Figure 5: Percentage of NRCS Field Offices Indicating Primary Hindrances in Carrying Out Conservation Compliance Provisions



Source: GAO.

Notes: GAO's survey results.

"Other" includes lack of NRCS guidance; lack of appropriate information, such as maps; compliance reviews that are not a priority with supervisor; sample tracts that are received at inconvenient times; and, external influences.

"Reversal of noncompliance decisions" includes decisions overturned by NRCS or USDA's National Appeals Division and waivers issued by the Farm Service Agency. However, Farm Service Agency officials noted that the issuance of a "good faith" waiver by their agency does not, technically speaking, represent a reversal of the noncompliance determination. They explained that although the farmer involved remains eligible for farm program benefits, the farmer has committed a violation and must undertake corrective measures within 12 months or risk losing these benefits at that time. Nevertheless, for the purpose of our work, we made a distinction: a compliance review either results in a violation, leading to the loss of a farmer's eligibility for farm program benefits, or a waiver, allowing a farmer to continue his/her eligibility.

In addition, 244 field staff elaborated on one of these hindrances—the undesirability of the enforcement role—in their written comments to our survey. For example, some wrote that it is difficult to provide assistance to farmers most of the year in the small communities where the field staff live and work and then have to cite some of the same farmers for noncompliance, which may result in the loss of their farm program benefits.

In this regard, our past work has noted this cultural conflict in NRCS between its regulatory role under the 1985 act and its traditional role of

advising and helping farmers.²³ Specifically, for the past 70 years, NRCS's role, including that of its predecessor organization, the Soil Conservation Service, has largely been to work cooperatively with farmers to provide technical assistance and foster voluntary conservation. With the addition of the 1985 conservation compliance provisions, NRCS is often in the conflicting position of acting as advisor to and regulator of farmers. Our past evaluation and many of the studies we reviewed found that this internal conflict contributes to the reluctance of the agency's field office staff, with whom most contacts with farmers take place, to cite farmers with violations in their conservation plans because such violations could cause farmers to lose their farm program benefits.

In addition to the primary hindrances noted by the survey respondents, 36 percent of respondents reported that since the mid-1990s, the agency's management has de-emphasized the conservation compliance provisions. Instead, NRCS has shifted its emphasis to providing technical assistance and to enrolling farmers in incentive-based conservation programs that provide cost-share and other financial assistance. For example, in January 2003, NRCS headquarters officials indicated that over the past 20 years, the number of conservation programs that the agency is responsible for implementing has doubled from 6 to 12. Furthermore, the funding for many of these programs has increased markedly in recent years, with a corresponding increase in workload for the agency's staff. However, according to these officials, NRCS staff level has declined by about 25 percent in the last 20 years.²⁴

These problems, which may be difficult to address, are exacerbated by a lack of training on the conservation compliance provisions and a need for further clarification of NRCS's written guidance. Periodic training has generally not been available since the mid-1990s, which has led to errors in assessing and reporting on compliance. For example, in 11 of the 20 field offices we visited, staff had not received periodic training on how to conduct these reviews and, as a result, these field staff did not always correctly report the results of their compliance reviews.

²³ See U.S. General Accounting Office, *Soil and Wetlands Conservation: Soil Conservation Service Making Good Progress but Cultural Issues Need Attention*, [GAO/RCED-94-241](#) (Washington, D.C.: Sept. 27, 1994).

²⁴ At present, NRCS has about 11,000 employees. About three-fourths of these employees are located in the agency's approximately 2,500 field offices.

Similarly, nearly 80 percent of the 114 survey respondents who provided written comments on training issues noted the lack of recent training on highly erodible land and wetlands conservation provisions, including conducting compliance reviews. For example, one respondent commented that he received excellent training in the conservation compliance provisions when they were first implemented in the early 1990s but that many of the younger employees have not received such training. Another respondent, who had transferred from one state to another noted differences in how the compliance reviews were conducted and suggested that staff needed training to ensure that reviews are conducted uniformly. In discussing this issue with NRCS headquarters officials in January 2003, they acknowledged that periodic training has not been provided in recent years and agreed that this lack of training is a problem.

Moreover, more than 50 percent of survey respondents reported that NRCS's *National Food Security Act Manual* (the guidance manual) needs clarification in key areas of conservation compliance—highly erodible cropland, sodbuster, swampbuster, compliance reviews, and appeals of noncompliance decisions. USDA's Office of Inspector General has also reported on the need for clarification in NRCS's written guidance for implementing the conservation compliance provisions. For example, in a September 2002 report, the Inspector General noted that weaknesses in guidance manual procedures had reduced the effectiveness of NRCS administration of the highly erodible land provisions and the agency's ability to accurately evaluate producers' compliance with these provisions.²⁵ The weaknesses noted include incorrect procedural cross-references, inconsistent guidelines for applying the provisions, and inconsistent instructions for executing the provisions. For example, the Inspector General noted that the guidance manual does not provide specific guidance on the action required if a farmer and field office personnel disagree over the conservation practices to be included in the farmer's conservation plan. In reviewing these types of cases in Kansas, the Inspector General found that farmers were generally granted a special problem waiver in lieu of a noncompliance determination, although the guidance manual provides that this type of waiver is authorized only when a farmer is actively applying an approved conservation plan. In another

²⁵ See U.S. Department of Agriculture, Office of Inspector General, *Natural Resources Conservation Service Compliance with Highly Erodible Land Provisions*, Audit Report No. 10099-8-KC (Washington, D.C.: Sept. 10, 2002). This audit was undertaken in NRCS and Farm Service Agency offices in Kansas.

case, the Inspector General found that although the guidance manual allows “properly trained personnel” to make visual estimates of crop residue during on-site compliance reviews, the manual does not specify the training necessary or who will determine whether the person doing a review is qualified to make the estimate.

The Inspector General also noted a need for NRCS to better coordinate with the Farm Service Agency to ensure consistency among their respective policies and procedures concerning the compliance provisions. For example, the Inspector General found that although the NRCS guidance manual states that the Farm Service Agency rules applicable to the agency’s Farm Loan Program require annual compliance reviews for 5 percent of borrowers producing commodity crops on highly erodible cropland, the manual does not explain how this sample should be drawn. Similarly, relevant Farm Service Agency handbooks do not provide this guidance either. As a consequence, the Inspector General found that sample selection methods were inconsistent across the field offices examined, leading to inefficiencies such as the inclusion of farmers whose loans are not affected by the compliance provisions. The Inspector General also found that farmers are not subject to a mandatory compliance review at the time a loan is requested, yet once a loan is closed, it is unlikely the loan will be called because of a conservation compliance violation.

In light of these findings, the Inspector General recommended that NRCS undertake certain actions to clarify its written guidance and to better coordinate its guidance with guidance issued by the Farm Service Agency. In a letter signed by its Acting Deputy Chief for Programs, NRCS accepted these recommendations and promised corrective actions by August 2003.

Weak Oversight Raises Doubts about NRCS’s Assertion of a High Rate of Compliance

NRCS does not effectively oversee its field offices’ implementation of the conservation provisions, among other things, calling into doubt its claim that 98 percent of the tracts reviewed are in compliance with the act’s conservation provisions. First, NRCS’s process for selecting tracts for compliance reviews disproportionately emphasizes tracts with little or no potential for noncompliance, such as permanent rangelands. Such tracts account for about 20 percent of the tracts selected annually. Second, NRCS does not have an automated system for promptly informing its field offices of the tracts selected for compliance reviews and for enabling the field offices to efficiently report the results of these reviews. As a consequence, in many cases, the field offices do not have the information on the tracts to be reviewed until after the critical erosion control period

has passed; the reviews should be done during these periods. Third, NRCS does not consistently collect and analyze the results of the field offices' compliance reviews to identify unusual enforcement patterns across regions and states and over time. For example, NRCS was not aware, until our review, that 30 of the 50 "good faith" waivers granted nationally in 2000 occurred in just one state. Finally, USDA's Office of Inspector General has noted that improvements in NRCS's implementation of the conservation provisions are needed to strengthen the agency's ability to provide accurate and reliable assessments of farmers' compliance. Importantly, these improvements include the need for NRCS to refrain from issuing waivers that are not warranted.

NRCS's Compliance Sample Includes Tracts with Little Potential for Noncompliance

NRCS's process for selecting land tracts for compliance reviews gives a disproportionate emphasis to tracts that have little potential for noncompliance, potentially inflating the farmers' compliance rate reported by the agency. To conduct the compliance reviews, NRCS randomly selects about 13,000 tracts of land from a Farm Service Agency database containing more than 4.5 million tracts of land owned or leased by farmers receiving USDA program benefits. Of the 4.5 million tracts, 1.7 million are designated as highly erodible land, and the remaining 2.8 million are designated as potential wetlands.

Of the 13,000 sample tracts, about 60 percent are selected for highly erodible land. The remaining 40 percent are selected from tracts that have the potential to contain wetlands. This latter group of tracts is separated into two groups—hydric and nonhydric. The hydric group includes tracts located in counties where more than 20 percent of the soil is classified as hydric—that is, the land is flooded long enough during a growing season to support plants that can grow in water or in soil too waterlogged for most plants to survive. The remaining tracts are placed in the nonhydric group. In general, tracts placed in this group have a very low potential to be subject to the conservation compliance provisions concerning wetlands. For example, many of these tracts are located in arid parts of the country and include permanent rangelands. Nevertheless, NRCS draws a relatively large sample from the nonhydric group—amounting to about 20 percent of the 13,000 sample tracts overall—even though the applicability of the conservation compliance provisions to these tracts is very unlikely.

The inclusion of nonhydric tracts for which the conservation compliance provisions have little applicability tends to inflate the farmer compliance rate reported by NRCS. In 2001, this rate was reported as 98 percent compliance. For example, 73 field offices providing written comments to

our survey reported that many tracts selected for compliance reviews were not subject to the conservation provisions because the tracts did not contain wetlands or highly erodible land or because the tracts contained rangeland, timber, or permanent cover grass. The results of our field office work tended to reinforce this conclusion. For example, we found that 36 tracts selected for the wetlands compliance review contained no wetlands. Moreover, some of these tracts consisted of permanent rangeland, which is not subject to the conservation provisions. Nevertheless, the field offices involved reported these tracts as being in compliance, even though the conservation provisions were not applicable to them. A number of NRCS officials told us that it would be more appropriate for the agency to reduce the number of nonhydric tracts reviewed in favor of increasing the number of highly erodible land and hydric tracts reviewed.

Another potential issue concerning the sample of tracts selected by NRCS for review concerns the size of that sample. For example, two groups with whom we spoke, the Wildlife Management Institute and the Sustainable Agriculture Coalition, assert that the sample size is too small to serve as a deterrent to farmers who may be violating the conservation compliance provisions. They note that this sample size has dropped from 42,000 in 1997 to about 13,000 annually beginning in 1998; the latter number represents about one-quarter of 1 percent of the 4.5 million tracts potentially subject to the conservation provisions nationwide.²⁶ However, these groups have not questioned the statistical validity of the sample drawn for projecting to the universe of all farmers associated with these 4.5 million tracts. In response, NRCS officials told us that they reduced the sample size because of resource constraints; higher-priority work related to its other programs; and the absence of demonstrated, widespread noncompliance in past reviews. In addition, they maintain that this lower number of reviews is adequate and statistically valid for projecting nationally. However, at the same time, they note that the sample is not large enough to project on a state-by-state basis.

²⁶ The actual number of compliance reviews done each year was somewhat higher. For example, in 2000 and 2001, the total tracts reviewed were 17,259 and 17,708, respectively. The total for 2000 includes 13,025 tracts selected randomly by NRCS headquarters and an additional 4,234 tracts added by NRCS field offices on the basis of referrals from other agencies (e.g., tracts owned by employees of other USDA agencies), whistleblower complaints, tracts owned by Farm Loan Program participants, and tracts that maintained eligibility for farm benefits because of prior year waivers. Similarly, the total for 2001 includes 13,544 tracts selected randomly and an additional 4,164 tracts added by NRCS field offices.

NRCS Lacks an Automated System to Promptly Inform Its Field Offices of Tracts Selected for Compliance Reviews

NRCS does not have a nationwide, automated system, such as a web-based system, for promptly informing its field offices of the tracts selected for compliance reviews and for enabling the field offices to efficiently report the results of these reviews. As a consequence, in many cases, the field offices do not have the information on the tracts to be reviewed until after the critical erosion control period during which the reviews should have been done. As a result, NRCS does not have a comprehensive picture of erosion during critical periods. Furthermore, without such a system, NRCS lacks accurate, up-to-date information for oversight to evaluate the field offices' implementation of the conservation compliance provisions.

According to NRCS officials, the agency had a nationwide, automated system in the mid-1990s that it used to promptly inform its field offices of tracts selected for review and to receive the results of these reviews. However, NRCS discontinued using this system in 1998 because it was unsatisfactory for other agency operations, such as developing conservation plans for farmers or taking applications for USDA's various incentive-based conservation programs. In place of the original system, NRCS implemented a new system that more efficiently collects information related to these other operations.²⁷ However, the new system does not provide a means to efficiently disseminate and collect information on compliance reviews.

At present, NRCS uses a cumbersome, multi-step process to disseminate and collect information on compliance reviews that does not allow for the efficient sharing of information. Specifically, in order to disseminate information on tracts selected for review, NRCS headquarters must first provide its state offices with the list of selected tracts. The state offices then sort and transmit this information to supervisory area field offices, which, in turn, sort and transmit the information to individual field offices.²⁸ This process generally tends to delay the transmittal of information on tracts selected for reviews to the field offices that must do these reviews until after the critical erosion control periods in which the

²⁷ NRCS eliminated the earlier system in favor of a new system, known as the Performance and Results Measurement System. This system is used to collect data on the number of farmers assisted, types of assistance provided, conservation practices planned and installed, and program results or outcomes. The system was piloted in fiscal year 1999 and is now fully operational.

²⁸ NRCS's field structure includes state, area (encompassing several field offices), and field offices. Some smaller states do not have area offices. In general, field offices correspond to a county.

reviews should be done have passed, such as during the spring planting period when the residue (ground cover) from previous crops is low, rains may be heavy, and the soil is being disturbed for planting. For example, in 2000, NRCS's Texas state office received information from NRCS headquarters on the tracts selected for review on March 31, but did not transmit this information to area offices until April 26, 2000. The area office for west Texas did not transmit the selected tracts to its field offices until May 2, 2000. As a result of the delays at each step in this process, the west Texas field offices did not receive the list of tracts for compliance reviews until well after the critical erosion control period, which ended in early April.

The current process for disseminating and collecting information on compliance reviews also interferes with timely compliance checks that should be done in the fall, such as at the time when winter wheat is sown. For example, NRCS requires its field offices to complete compliance reviews no later than the early fall, which is before the critical erosion period in some areas of the country associated with crops planted in late fall. NRCS requires reporting by early fall in order to allow time for it to enter the information on the results of these reviews into its compliance review database before the end of the calendar year.²⁹ As with the dissemination of information from headquarters to the field offices on the tracts to be reviewed, the roll up of the results of these compliance reviews must repeat the multi-step process in reverse: field office to supervisory area office; area office to state office; and state office to headquarters. In some cases, the results of the reviews are provided in electronic files attached to emails; in others, the field offices provide the results in paper documents that the receiving office must enter into an electronic file before it can be passed on to the next level.

USDA's Office of Inspector General has also reported on the need for more timely compliance reviews to strengthen the agency's ability to provide accurate and reliable assessments of farmers' compliance. In its September 2002 report, the Inspector General concluded that compliance reviews are not always performed during critical erosion control periods because of the untimely distribution of compliance review tract selection lists to NRCS state and field office personnel. For example, in Kansas,

²⁹ According to NRCS officials, NRCS's state offices must report the results of compliance reviews to headquarters by December 1. To ensure this deadline is met, field offices are generally required to report the results of their reviews to their area offices in October, and, in turn, the area offices must report these results to the state offices by early November.

where the critical wind erosion control period is March 1 through April 15, the list of tracts selected for compliance reviews in 2000 was not received in one field office until April 19 of that year. Moreover, guidance from the NRCS's Kansas state office on how to download and use the 2000 compliance review list was not issued to its field offices until April 27. As a consequence, it was impossible for these field offices to perform the required compliance reviews during the critical erosion control period.

NRCS headquarters and field staff acknowledge the need for a nationwide, automated system, such as a web-based system, for promptly informing the agency's field offices of the tracts selected for compliance reviews and for enabling these offices to report the results of their reviews as they are completed. In general, these staff referred to the current process for disseminating and collecting this information as piecemeal and inefficient. Furthermore, in a letter responding to the Inspector General's September 2002 report, the agency's Acting Deputy Chief for Programs stated that NRCS would reengineer its compliance review process, including the development of new software, to provide for a more timely distribution of the status review lists. This official stated that this action would be taken by August 2003. However, in January 2003, NRCS headquarters officials indicated that uncertainties regarding the agency's appropriation for fiscal year 2003 would preclude NRCS from taking this action by August 2003.³⁰ In addition, these officials said that the reengineering of the agency's compliance review process must be weighed against other agency priorities for available funding. At present, NRCS officials said the timeframe for completing this reengineering is uncertain, although they indicated that the agency's plan is, at some point, to web-base the data entry for compliance reviews.³¹

³⁰ As of January 2003, USDA, as well as most of the federal government, was operating under a continuing resolution.

³¹ According to NRCS officials, the agency plans to include a conservation compliance database in a module of its Integrated Accountability System. Eventually, the associated data entry would be web-based. As of early February 2003, this project plan was pending and subject to receipt of adequate appropriations. Regarding cost, NRCS officials noted that the cost of the planned actions will be relatively low and it is included as an indistinct cost element in a larger accountability system appropriation request for fiscal year 2003. In the meantime, these officials advised us that NRCS is undertaking measures in fiscal year 2003 to improve the compliance review process, including earlier dissemination of information on the tracts to be reviewed and several policy changes. However, given the recentness or pending status of these developments, we were unable to assess their impact.

NRCS Does Not Consistently Collect and Analyze Monitoring Data

NRCS has not established and maintained a consistent methodology for collecting and summarizing compliance review data so that it can (1) reliably compare farmers' compliance with conservation provisions from year to year and (2) assess its field offices' conduct of compliance reviews. According to Office of Management and Budget Circular A-123, agencies are required to implement management controls such as policies and procedures to reasonably ensure that programs achieve their intended results; laws and regulations are followed; and reliable and timely information is obtained, maintained, reported, and used for decision making. From 1993 through 1997, NRCS collected detailed information about the results of its compliance reviews to identify trends and anomalies in monitoring farmers' compliance with the conservation provisions. NRCS analyzed data at the state level and reported information such as the percentage of farmers in noncompliance, the types of waivers granted, and the soil erosion rates both before and after the application of conservation practices. However, in January 2003, NRCS headquarters officials said that beginning in 1998 the agency significantly reduced the information it gathers because staff reductions and an increasing workload associated with its other programs made the collection of this information burdensome. In addition, these officials noted that after the conservation systems required under the compliance provisions were in place by the mid-1990s, NRCS placed less emphasis on collecting data related to compliance reviews. For example, NRCS no longer collects soil erosion rates before and after conservation practices have been applied and has only periodically collected information on the types of waivers granted. Furthermore, although NRCS still collects the results of the field offices' compliance reviews, it no longer analyzes these results to determine consistency across regions and states and over time.

As a result of these changes, NRCS is no longer able to determine whether the conservation provisions are being consistently applied across states and over time. For example, until we brought it to their attention, NRCS headquarters staff were unaware that 30 of the 50 good faith waivers granted nationally in crop year 2000 occurred in just one state. In another case, NRCS was unaware that of the approximately 2.1 million technical assistance visits that its staff made to farms during crop years 2000 and 2001, as discussed, these staff identified deficiencies and issued waivers in only 22 instances.

USDA's Office of Inspector General Has Also Noted the Need to Improve the Reliability of NRCS's Assessments of Farmers' Compliance

In addition to improving the timeliness of compliance reviews, as discussed, USDA's Office of Inspector General has noted other areas in need of improvement regarding NRCS's implementation of the conservation provisions. For example, in reports issued in August and September 2002, the Inspector General cited specific examples in Kansas where special problem waivers were approved for circumstances that did not appear to meet the established criteria.³² NRCS may grant this type of waiver to a farmer if a violation occurred because of personal hardship or adverse weather, or if the violation was minor, or if it was technical. The Inspector General also noted cases where potential compliance deficiencies, identified by NRCS field staff when providing conservation technical assistance to a farmer, were not subject to follow up status reviews.

Regarding the use of special problem waivers, the Inspector General found cases where NRCS area and state office personnel authorized these waivers because of agency procedural errors even though the farmers involved were not actively applying approved conservation plans or systems, as required by the conservation provisions and the agency's guidance manual. For example, in one case, the Inspector General found that a farmer received a waiver for 2 consecutive years on the basis of a minor procedural issue although the district conservationist found the farmer to be in noncompliance with the sodbuster provision. The waiver was recommended by the area office on the basis of the local field office's failure to complete in-office paperwork related to the compliance reviews within prescribed time frames although this missed internal deadline had no bearing on the district conservationist's noncompliance determination. The Inspector General concluded that special problem waivers were being used inappropriately to prevent farmers from being found to be noncompliant with the conservation compliance provisions. As a result, according to the Inspector General, the farmers involved were allowed to continue to receive USDA farm program benefits even though they were violating the conservation provisions.

Concerning compliance deficiencies noted during the on-farm provision of conservation technical assistance, the Inspector General found cases in

³² See U.S. Department of Agriculture, Office of Inspector General, *Natural Resources Conservation Service: Effectiveness of Status Review Process in Kansas*, Audit Report No. 10099-9-KC (Washington, D.C.: Aug. 8, 2002) and *Natural Resources Conservation Service: Compliance with Highly Erodible Land Provisions*, Audit Report No. 10099-8-KC (Washington, D.C.: Sept. 10, 2002).

one field office where, although the NRCS staff had seen violations during the provision of this assistance, these staff did not include the farmers involved on a list of producers who would be determined to be noncompliant if all noted deficiencies were not corrected. In general, this occurred in cases where a farmer requested, but did not receive, cost-share assistance for planned conservation practices under other USDA programs. Specifically, the Inspector General found that this office's philosophy was that the farmer should not be penalized, despite the existence of compliance violations, for voluntary efforts to apply conservation measures. However, NRCS's national guidance manual is clear in these cases: (1) NRCS should inform the farmer of actions or practices needed when potential compliance deficiencies are noted while providing routine technical assistance. (2) The farmer is then required to agree to correct the deficiency, sign a conservation plan within 45 days, and implement the necessary conservation system within 1 year to remain compliant and eligible for farm program benefits. (3) NRCS should conduct a compliance review after a year to determine if the farmer took the necessary actions. Again, because of the problems noted, the Inspector General concluded that farmers who were potentially noncompliant with the conservation compliance provisions remained eligible for USDA farm program benefits.

In response to the Inspector General's findings, NRCS agreed to take corrective actions. For example, the NRCS Kansas state office indicated that it will review all special problem waiver requests on an ongoing basis and approve waivers only for those situations that meet the criteria for special problems established in national guidance. The state office also concurred that potential compliance deficiencies observed while providing routine technical assistance are subject to a follow-up compliance review, regardless of the presence or absence of cost-share assistance; the state office promised a clarifying directive to all of its field offices by January 1, 2003, if it found that this problem was occurring in other offices.

Farm Service Agency Frequently Waives NRCS Noncompliance Decisions without Adequate Justification

The Farm Service Agency frequently waives NRCS's noncompliance determinations but does not always adequately support its decisions. From 1993 through 2001, the Farm Service Agency waived NRCS's noncompliance determinations in 4,948 of 8,118 cases in which farmers were cited with violations, or about 61 percent, in response to farmers' appeals. Of the 4,948 appeals leading to waivers, 3,966, or 80 percent, were considered by the Farm Service Agency's local county committees, which found that the farmers had acted in good faith—that is, they did not intend to violate the conservation provisions.³³ Regarding the role of the county committees, 41 NRCS field offices providing written comments in response to our survey noted that because the committee members are fellow farmers, they are predisposed to approve farmers' appeals so as not to penalize a neighbor's eligibility for farm program benefits. In addition, about one-third of our NRCS survey respondents indicated that the Farm Service Agency does not adequately justify its waiver decisions. In Illinois, Indiana, and Iowa, half of the survey respondents shared this view. Without support from the Farm Service Agency, some NRCS field office staff said that they have less incentive to conduct compliance reviews and issue violations when warranted. In addition, in discussing this issue with NRCS headquarters officials in January 2003, they expressed surprise when informed of the frequency with which the Farm Service Agency waives NRCS's noncompliance determinations.

Our field office visits reinforced the assertion that the Farm Service Agency does not adequately justify its waiver decisions. In the five offices we visited that had found farmers in violation of the conservation provisions, NRCS officials indicated that the Farm Service Agency's waivers were not adequately justified. Furthermore, our review of the minutes of the Farm Service Agency's county committee meetings and other relevant records revealed that these documents did not clearly explain the basis for waiving NRCS's noncompliance determinations in 34 of the 48 waivers we examined. For example, in 2001, in one office in Nebraska, we found that the county committee waived 8 NRCS noncompliance determinations for a single farmer, even though NRCS had already waived 16 violations for this farmer from 1999 through 2001.

³³ In the remaining 982 appeals, the Farm Service Agency reinstated the benefits by issuing tenant and landlord waivers in 729 and 253 cases, respectively. Tenants may maintain eligibility for benefits if the violation occurred because the actions of the landlord prevented the tenant's implementation of the conservation system. If a landlord owns tracts operated by more than one tenant, the landlord will be eligible for benefits on all tracts except those tracts where a tenant violates the conservation compliance provisions.

However, the committee's minutes and other documentation did not clearly state the reason for these waivers.

Because of the waivers granted by its county committees, the Farm Service Agency reinstates most benefits that farmers would otherwise be ineligible to receive. As shown in table 2, for crop years 1993 through 2001, of the \$59.6 million in benefits that were to be denied because of compliance violations, about \$40.4 million was reinstated after the Farm Service Agency considered farmers' appeals and made its final ruling. The table also shows that the benefits actually denied as a percentage of benefits to be denied has generally declined over time. More detailed information on the benefits denied farmers for conservation compliance violations is contained in appendix IV.

Table 2: USDA Benefits Denied Farmers by the Farm Service Agency for Violations of Conservation Provisions, Crop Years 1993-2001

Dollars in thousands

Crop year	Tracts reviewed for compliance ^a	Tracts with violations	Farmers with violations	Benefits to be denied before appeals	Benefits reinstated by Farm Service Agency ^b	Benefits reinstated by others ^c	Benefits denied	Percentage of benefits denied
1993	53,878	2,085	2,860	\$17,211	\$10,416	\$2,067	\$4,483	26.0
1994	49,314	1,639	2,483	14,845	9,415	1,803	3,625	24.4
1995	44,983	633	940	2,838	1,639	224	975	34.4
1996	49,986	498	632	2,302	967	405	930	40.4
1997	49,636	183	277	2,305	1,622	279	403	17.5
1998	15,385	205	268	3,895	1,988	1,175	731	18.8
1999	14,136	180	245	4,959	4,241	355	362	7.3
2000	17,259	153	197	4,870	4,168	39	634	13.0
2001	17,708	118	170	6,385	5,941	155	289	4.5
Total	312,285	5,694	8,072	\$59,610	\$40,397	\$6,502	\$12,432	20.9

Source: GAO.

Notes: GAO's analysis of the Farm Service Agency's data.

Benefits denied include price and income support payments, conservation payments, disaster payments, guaranteed loans, and crop insurance (through 1996). Benefits denied do not include \$361,441 that could not be directly associated with specific tracts.

Data in table do not include benefits denied participants in the peanut-marketing quota program or tobacco-marketing quota program, which are reported in pounds. The benefits denied total 2.1 million pounds for peanuts and 3.6 million pounds for tobacco.

The decline in the number of tracts and farmers with violations over time is attributable, in part, to the reduction in the number of compliance reviews being performed each year. Other factors, as noted in the results of our survey and field office visits, as well as in reports issued by USDA's Inspector General, likely include a misuse of waivers, decreasing management emphasis on conservation compliance relative to NRCS's other responsibilities, and a continuing reluctance to assume the enforcement role called for by the compliance provisions.

^a Compliance reviews are conducted by NRCS.

^b Includes \$33.9 million reinstated because of good faith waivers and \$6.5 million reinstated because of tenant and landlord waivers.

^c Includes benefits reinstated by NRCS State Conservationists, USDA's National Appeals Division, and judicial courts after considering related farmers' appeals.

In discussing the waiver issue with Farm Service Agency officials in January 2003, they noted that the Federal Agriculture Improvement and Reform Act of 1996 eliminated graduated payment reductions as a penalty for conservation compliance violations, except for sodbuster. Thus, the agency's county committees currently have few options when considering a farmer's appeal of a noncompliance determination. According to these officials, the committees are faced with an "all or nothing" decision: either the committee must grant a good faith waiver, continuing the farmer's

eligibility for benefits and giving the farmer 12 months to get back into compliance, or deny the appeal, making the farmer ineligible for farm program benefits. These officials added that the decision to grant a good faith waiver is, by its nature, subjective, not technical; despite the violation, the committee must decide whether the farmer acted in good faith and without intent to violate the conservation provisions. However, as discussed, one-third of our NRCS survey respondents indicated that the Farm Service Agency's waivers are not adequately justified, and some field staff commented that the granting of these waivers acts as a disincentive to them to make future noncompliance determinations when warranted.

Conservation Provisions and Other Factors Have Significantly Reduced Soil Erosion and Wetlands Conversions, but Progress Has Slowed in Recent Years

According to USDA, conservation groups, and farm organizations, in the 17 years since the 1985 act, its conservation provisions have contributed to substantial reductions in soil erosion and wetlands conversions. However, other factors, such as economic incentives for farmers to use new farming techniques and equipment that are more conserving of land and water resources, have also contributed. In addition, reductions in soil erosion and wetlands conversions have leveled off in recent years, and in some areas of the country, soil erosion has even increased.

According to NRCS's National Resources Inventory, substantial reductions in soil erosion occurred during the 1980s and 1990s as the conservation provisions were being implemented.³⁴ The nation's soil erosion on all cropland—both highly erodible and nonhighly erodible cropland—fell from 3.1 billion tons, or about 7 tons per acre, in 1982 to 1.9 billion tons, or about 5 tons per acre, in 1997, the most recent year for which data are available.³⁵ The soil erosion rate on highly erodible cropland—land that is subject to the conservation provisions—declined by 35 percent from 1982 through 1997. In 1982, the average annual soil erosion rate attributable to water on these lands was about 8 tons per acre, but by 1997, the rate was about 5 tons per acre.

³⁴ The National Resources Inventory is conducted in 5-year intervals by NRCS to assess the conditions of land cover and use, soil erosion, farmland, wetlands, and other natural resource characteristics on nonfederal rural land in the United States. In general, the inventory covers some 800,000 sample sites on this nonfederal land (about 75 percent of the nation's land area). The inventory results are used for formulating policy and developing natural resource programs at the national and state levels.

³⁵ The results of NRCS's most recent National Resources Inventory, covering the 5-year period ending in 2002, have not yet been published.

Less soil erosion helps maintain soil productivity.³⁶ According to NRCS, from 1982 through 1997, the percentage of cropland on which long-term soil productivity is being depleted declined from 67 percent to 55 percent. Similarly, for the same period, the percentage of highly erodible cropland on which long-term soil productivity is being depleted declined from 45 percent to 33 percent. Furthermore, reducing soil erosion on cropland has benefits for the general public that may be substantial, such as improving water and air quality. For example, according to a 2001 USDA study, the societal benefits of reducing erosion through conservation compliance exceed \$1.4 billion per year.³⁷

However, the proportion of this soil erosion reduction that can be attributed to conservation compliance provisions is difficult to assess because other factors have affected farmers' decisions. For example, some farmers adopted erosion-reducing conservation tillage practices over this period because these practices can reduce their crop production costs, resulting in increased profits. During this time, new machinery and technology allowed farmers to plant their crops with less tillage, thereby saving time and money, while also keeping soil-conserving crop residue on the field. In addition, conservation programs, such as USDA's Environmental Quality Incentives Program, provided farmers with financial assistance to encourage them to adopt conservation practices. Finally, federal, state, and local laws addressing other environmental concerns might have also encouraged the adoption of conservation practices. Thus, even in the absence of the conservation compliance

³⁶ Soil productivity is the quality of a soil that enables it to provide nutrients in adequate amounts and proper balance for crop production. Soil productivity is maintained when the rate of erosion does not exceed the ability of the soil to regenerate itself through natural processes.

³⁷ See U.S. Department of Agriculture, Economic Research Service, *Agri-Environmental Policy at the Crossroads: Guideposts on a Changing Landscape*, Report No. AER-794 (Washington, D.C.: January 2001). According to this report, the estimate of \$1.4 billion in benefits includes improved surface water quality, which increases the public's enjoyment of water-based recreation and decreases the cost to municipalities, industry, and other public and private sectors. However, the estimate understates the true value of reduced soil erosion because other benefits, such as the increases in waterfowl populations or the survival of endangered species and decreases in the cost that air-borne soil imposes on industries and scenic views, have not been included.

provisions, some farmers would have employed conservation practices, and some of this soil erosion reduction would have been achieved.³⁸

Nevertheless, while conservation progress has been substantial, USDA considers soil erosion a continuing problem and believes that progress in reducing soil erosion has slowed in recent years. In this regard, soil erosion on about 27 percent, or 28 million acres, of the cropland subject to the 1985 act's provisions is still much higher than on cropland generally—an average of 24 tons per acre annually compared with the national average of about 5 tons per acre. In addition, about 50 million of the nearly 273 million acres of the nation's cropland that is not subject to conservation compliance is experiencing a high rate of erosion and loss in long-term soil productivity, according to USDA. Regarding the slowing in progress noted, the Conservation Technology Information Center, a nonprofit conservation organization that reports biennially on farmers' use of conservation tillage practices, found in 2002 that this usage continued a slight decline that began in 1998 after increasing during the period 1990 through 1997. The center also reported that farmers slightly increased their use of intensive tillage practices—which result in higher soil erosion levels than when conservation tillage is used.

NRCS field offices believe that further reductions in soil erosion are possible. Over 80 percent of our survey respondents reported that further declines in soil erosion are economically feasible for farmers to achieve. In addition, in counties where high levels of soil erosion are permitted by alternative conservation systems, 74 percent of the field offices reported that further reductions in erosion are feasible.³⁹

³⁸We also note that the Conservation Reserve Program has been a significant factor in reducing the overall levels of soil erosion achieved. This program was enacted in conjunction with the conservation compliance and sodbuster provisions in the Food Security Act of 1985 as part of an overall strategy to reduce soil erosion. Currently, about 34 million acres of cropland are enrolled in the program; many of these acres were highly erodible prior to enrollment. The program reduces erosion by taking this cropland out of production and requiring that a permanent vegetative cover be established on it.

³⁹In 1988, NRCS revised its technical guidance to provide farmers greater flexibility in complying with the conservation provisions. For example, the option of alternative conservation systems was introduced. Alternative systems are available in areas in which it is not economically feasible for farmers to reduce soil erosion to levels low enough to maintain the long-term productivity of the land. Nevertheless, alternative systems achieve some reduction in soil erosion. Changing resource conditions and the introduction of new farming and conservation technologies may now make it economically feasible for farmers using alternative systems to achieve further reductions in soil erosion.

With respect to wetlands, wetlands conversions due to agriculture fell sharply from an average of 235,000 acres per year before the 1985 provisions (from 1974 through 1983) to an average of 27,000 acres per year after the provisions (from 1992 through 1997), according to USDA. However, as with provisions to reduce soil erosion, factors other than the wetlands conservation provisions may be responsible, in part, for the reductions. According to a USDA study, about half of the original, naturally occurring wetlands in the continental United States had been drained by 1985 and many of the remaining wetlands might not have been converted because these wetlands were not economically feasible to convert.⁴⁰ Furthermore, according to the American Farm Bureau Federation's Senior Director of Government Relations, the positive effects of the wetlands conservation provisions cannot be determined without knowing how other federal, state, and local regulations affect wetlands conversions. However, a 2001 USDA report cites the large decline in wetlands conversions and credits the conservation compliance provisions with discouraging the conversion of as much as 3.3 million acres of wetlands.⁴¹ In addition, the Director of the Wildlife Management Institute stated that the wetlands provisions have been very effective in protecting permanent and semipermanent wetlands. However, this official said that the provisions are only marginally effective in protecting temporary and seasonal wetlands because USDA generally identifies these wetlands during the summer months when the wetlands are often smaller or completely dry and less likely to exhibit other wetlands characteristics. Officials in the Department of the Interior's Fish and Wildlife Service also noted that the wetlands provisions are less effective for temporary or seasonal wetlands for this reason.⁴²

⁴⁰ See U.S. Department of Agriculture, Economic Research Service, *Agri-Environmental Policy at the Crossroads: Guideposts on a Changing Landscape*, Report No. AER-794 (Washington, D.C.: January 2001).

⁴¹ See U.S. Department of Agriculture, Economic Research Service, *Agri-Environmental Policy at the Crossroads: Guideposts on a Changing Landscape*, Report No. AER-794 (Washington, D.C.: January 2001).

⁴² NRCS officials indicated that the Food Security Act of 1985, as amended, requires NRCS to conduct wetlands determinations during the growing season, which generally includes the summer months. However, we note that the growing season also generally includes the spring months after planting, when temporary and seasonal wetlands are more likely to be wet.

Conclusions

The compliance review process serves as NRCS's principal tool for monitoring farmers' adherence to the 1985 act's conservation compliance provisions. In field offices and in headquarters, however, NRCS's use of this tool has fallen short. Improper implementation of the conservation provisions increases the likelihood that some farmers are still receiving federal farm payments even though they let soil erode at higher rates than allowed or convert wetlands to cropland.

As the results of our survey and field office visits indicate, NRCS's field offices often do not implement one or more of the key conservation compliance provisions designed to control erosion or prevent wetlands conversion. Provisions that are often neglected include checking for wetlands violations, revisiting farms granted compliance waivers the previous year, and citing farmers with violations for failing to implement important conservation measures. Because of these implementation problems, NRCS cannot be assured that its field offices' reports of farmers' compliance with the conservation provisions are accurate. A number of conditions contribute to these implementation problems, such as resource constraints, the lack of management emphasis, and a reluctance to assume an enforcement role. Even under these conditions, however, implementation could be improved if field office staff received clearer guidance and training so that they better understood their roles and responsibilities in implementing the compliance provisions, as well as the importance of these provisions.

Moreover, flaws in NRCS's oversight monitoring make questionable USDA's claim that 98 percent of the nation's cropland tracts subject to the conservation provisions are in compliance. First, NRCS's sample of tracts selected for compliance reviews reduces confidence in this claim. Twenty percent of the sample reviewed includes tracts that are not subject to the conservation provisions, such as permanent rangelands. Nevertheless, NRCS reports these tracts in compliance. Second, the current system for providing the field with information, and receiving information from it, does not enable field offices to visit tracts when the land is most vulnerable to erosion and to observe the effectiveness of farmers' compliance efforts. Third, NRCS is collecting less information about the results of the compliance reviews than it has in the past, making it difficult to compare farmers' compliance with the conservation provisions from year to year. Finally, although the information yielded by the compliance reviews may not be fully credible, it does suggest inconsistent enforcement. For example, 10 states issued most of the waivers and violations in crop years 2000 and 2001. However, NRCS has not used this information to investigate the enforcement issues raised.

Lastly, the Farm Service Agency waived NRCS's noncompliance determinations about 61 percent of the time during crop years 1993 through 2001. We found little documentation in the files to support these waivers. The frequency and questionableness of these waivers undermines NRCS's enforcement efforts. Without support from the Farm Service Agency, NRCS's field office staff have less incentive to issue violations when warranted.

Recommendations for Executive Action

To improve USDA's implementation of the conservation compliance provisions of the Food Security Act of 1985, as amended, and to better protect the highly erodible croplands and wetlands covered by those provisions, we recommend that the Secretary of Agriculture direct the Chief of NRCS to

- increase oversight of field offices' conduct of compliance reviews to improve the accuracy and completeness of the reviews;
- periodically provide training for field office staff on how compliance reviews should be conducted;
- develop a more representative sample of tracts selected for compliance reviews that excludes land that is not subject to the compliance provisions;
- establish and maintain a consistent methodology for collecting, analyzing, and summarizing data to identify patterns and trends in enforcement across regions and states and over time; and
- develop a nationwide, automated system, such as a web-based system, for efficiently managing information needed to conduct compliance reviews and report results.

In addition, we recommend that the Secretary of Agriculture direct the Administrator of the Farm Service Agency to ensure that decisions by the Farm Service Agency's field offices to waive NRCS's findings of noncompliance are justified and documented.

Agency Comments and Our Evaluation

We provided USDA with a draft of this report for its review and comment. We received oral comments from NRCS officials, including the Deputy Chief for Strategic Planning and Accountability and the Director for Operations Management and Oversight. We also received written comments from the Farm Service Agency.

NRCS officials concurred with our recommendations and indicated that they have begun steps to implement them. These officials also said that

they generally agreed with the report's findings but found the tone of the report to be overly negative. Specifically, these officials said that the report focuses too much on problems with the agency's implementation of the conservation compliance provisions and not enough on the provisions' positive accomplishments in reducing soil erosion and wetlands conversions.

We do not believe that the report is overly critical. NRCS's written guidance sets an expectation that its field staff consistently follow a set of procedures to determine farmers' compliance with the conservation provisions. On the basis of our survey responses from over 2,000 NRCS field offices, we found that nearly half of these offices do not consistently follow one or more of these procedures when conducting compliance reviews. Moreover, our field office visits revealed a similar pattern, thus reinforcing the survey results. Regarding the provisions' positive accomplishments, the report discusses the substantial reductions in soil erosion and wetlands conversions attributed to the provisions by USDA and others. The report also presents data on the extent of these accomplishments.

NRCS officials also objected to our characterization of NRCS's role in implementing the conservation compliance provisions as having an "enforcement" component. These officials said that NRCS is not an enforcement agency. They explained that NRCS makes technical determinations of farmers' compliance or noncompliance with the conservation provisions and that the decision to withhold farm program benefits for noncompliance rests with the Farm Service Agency. While we understand NRCS's sensitivity to this issue, we nevertheless believe it is accurate to describe its role in the provisions' implementation as including an enforcement component.

The conservation compliance provisions require that farmers who receive federal assistance meet standards for environmental quality. By setting such standards for agricultural activity, the provisions represent a departure from USDA's traditional role of implementing soil and water conservation programs that are voluntary and incentive based. NRCS is the lead agency for administering the conservation compliance provisions. Its responsibilities include the performance of compliance reviews to verify farmers' implementation of the conservation systems required by the provisions. These reviews are an integral step in the enforcement of the provisions. A determination of noncompliance, potentially leading to a farmer's loss of eligibility for farm program benefits, rests with NRCS. This responsibility exists and is intrinsic to enforcement even if another

agency must take action, on the basis of NRCS's finding and recommendation, to withhold this eligibility.

The Farm Service Agency also agreed with the report's recommendations. In addition, the agency generally agreed with the report's findings, but it downplayed the significance of our finding that the agency's county committees waived 61 percent of the NRCS noncompliance determinations made during 1993 through 2001. For example, the agency said that its waivers do not negate or overrule an NRCS determination that a violation occurred. The agency noted that although a "good faith" waiver granted by a county committee allows a violating farmer to continue receiving program benefits, the farmer must still take corrective action within 1 year, incurring any associated costs. In addition, the Farm Service Agency noted that the issuance of good faith waivers has aided the restoration of converted wetlands and the implementation of conservation systems on highly erodible land tracts that were brought back into compliance. According to the agency, it could be argued that many of these tracts would not have been brought back into compliance if eligibility for benefits had not been reinstated under the good faith waiver. The agency added that the overall purpose of the conservation provisions is not to deny benefits, but rather to achieve conservation compliance.

We agree with the Farm Service Agency's assessment that the purpose of the conservation provisions is not to deny farmers benefits. However, the Farm Service Agency's written guidance requires that county office committees grant good faith waivers judiciously and only when supported by conclusive evidence indicating that the farmer did not intend to violate the provisions. In addition, NRCS officials were concerned at the extent to which the Farm Service Agency waives NRCS's noncompliance determinations. These officials expressed the view that many of these waivers are not justified and that the high number of waivers tends to undermine NRCS's implementation of the conservation compliance provisions, thus giving its field staff less incentive to issue violations when warranted.

NRCS and the Farm Service Agency also provided technical corrections, which we have incorporated into the report as appropriate. The Farm Service Agency's written comments are presented in appendix VI.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. We will then send copies to interested congressional committees; the Secretary of Agriculture; the Director, Office of

Management and Budget; and other interested parties. We will make copies available to others on request. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

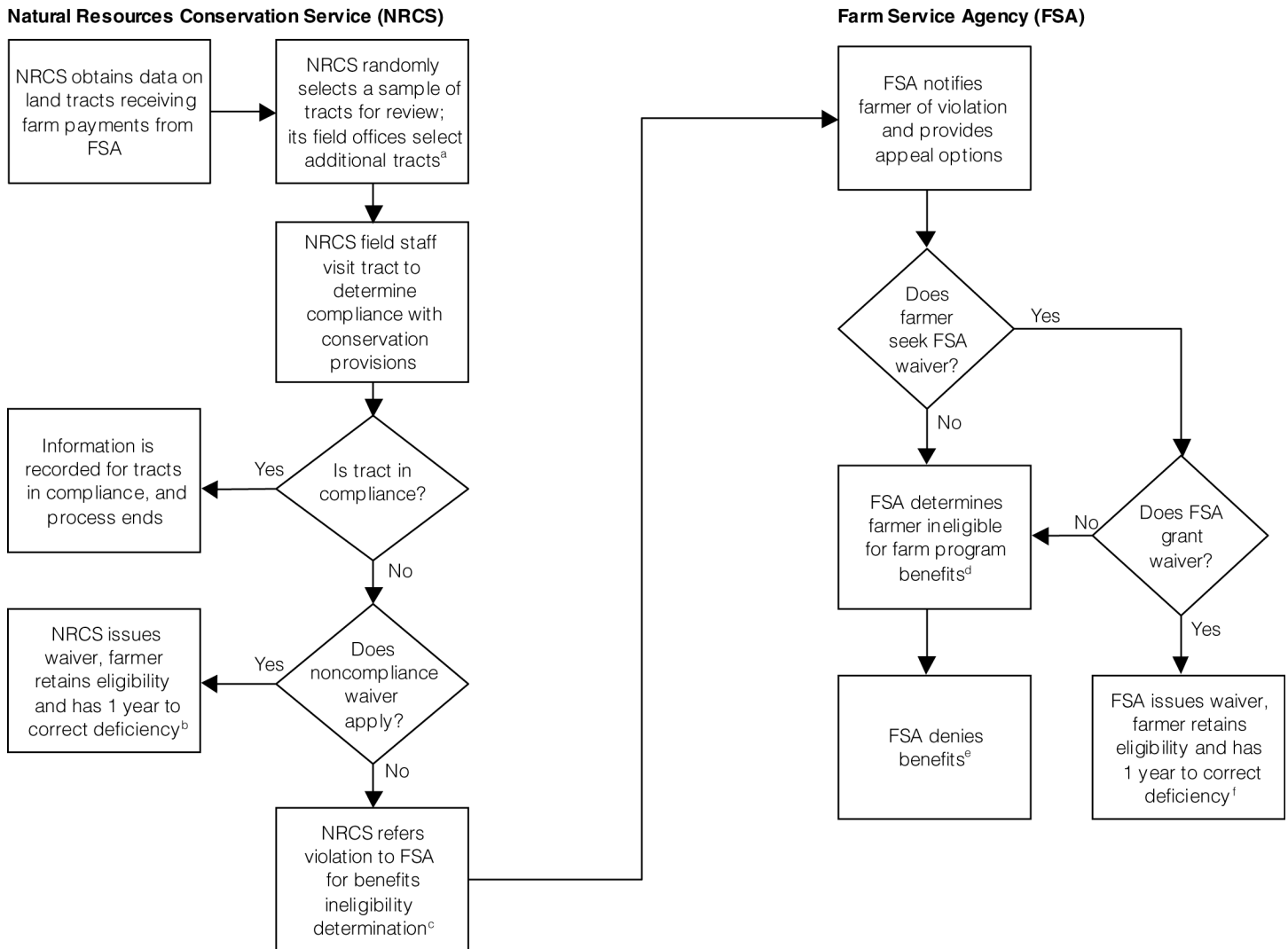
If you have any questions about this report, please contact me at (202) 512-3841. Key contributors to this report are listed in appendix VII.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Lawrence J. Dyckman". The signature is written in a cursive style with a large, stylized initial "L".

Lawrence J. Dyckman
Director, Natural Resources
and Environment

Appendix I: U.S. Department of Agriculture's Conservation Compliance Review Process



Source: GAO.

Note: GAO's analysis of U.S. Department of Agriculture's (USDA) compliance review process.

^a In addition to the random sample of tracts identified, NRCS field offices select additional tracts for review on the basis of referrals from other agencies (e.g., tracts owned by employees of other USDA agencies), tracts associated with farmers who receive farm loans, whistleblower complaints, tracts with potential violations observed by NRCS employees when providing technical assistance; and tracts associated with farmers granted a waiver the prior year.

**Appendix I: U.S. Department of Agriculture's
Conservation Compliance Review Process**

^b We use the term “waiver” in this case to refer to variances and exemptions given by NRCS. A variance continues a farmer’s eligibility for federal farm program benefits when the farmer is unable to apply a conservation system or practice because of severe or unusual conditions such as weather, disease, or pests; because the farmer experienced an extreme personal hardship or unusual occurrence, such as illness or death; or because the deficiency is minor and technical in nature. An exemption maintains a farmer’s eligibility for benefits when a violation is identified while NRCS staff are providing on-site technical assistance. The 1-year period to correct the deficiency does not apply to the severe or unusual conditions waiver.

^c Farmer has 30 days to request a field review for reconsideration or mediation of NRCS’s initial noncompliance decision. If the farmer does not exercise this option within the 30-day period, NRCS’s noncompliance determination becomes final and NRCS refers the matter to FSA for further action.

^d The benefits to be withheld from a farmer may include price and income support payments, conservation payments, disaster payments, and access to guaranteed loans.

^e Farmer may appeal FSA’s ineligibility determination first to the local FSA county committee and then, if necessary, to USDA’s National Appeals Division. If the farmer disagrees with the National Appeals Division’s decision, the farmer may file suit in federal district court.

^f We use the term “waiver” in this instance to refer to variances and exemptions given by the local FSA county committees. A variance continues a farmer’s eligibility when the farmer is unable to implement a conservation system because doing so would cause undue economic hardship. An exemption maintains the farmer’s eligibility when the farmer acted in good faith and without intent to violate the conservation provisions or when a landlord prevents a tenant farmer from implementing an approved conservation system. Similarly, in cases in which the tenant farmer’s violation is not attributable to actions of the landlord, the landlord may receive an exemption that continues the landlord’s eligibility for benefits regarding other tracts. The 1-year period to correct the deficiency does not apply to the tenant and landlord waivers.

Appendix II: Objectives, Scope, and Methodology

At the request of the Ranking Democratic Member of the Senate Committee on Agriculture, Nutrition, and Forestry, we reviewed USDA's implementation of the conservation provisions of the Food Security Act of 1985. Specifically, we agreed to determine (1) how well NRCS's field offices are carrying out these provisions; (2) how effectively NRCS oversees its field offices' efforts to carry out these provisions; (3) how often FSA waives NRCS's noncompliance determinations; and (4) the extent to which these conservation provisions have helped to reduce soil erosion and the loss of wetlands.

To determine how well NRCS's field offices are carrying out the conservation provisions, and how effectively NRCS's headquarters oversees its field offices' efforts to carry out these provisions, we examined NRCS's national database on the results of compliance reviews for crop years 1998 through 2001 to identify unusual patterns in compliance enforcement. Automated data for these reviews were not available for years prior to 1998. We also examined the guidance that NRCS's field offices use to monitor farmers' compliance with the conservation provisions, including relevant laws; the Code of Federal Regulations, title 7, part 12; and agency guidance, including NRCS's *National Food Security Act Manual* and related state amendments and bulletins.

We also surveyed staff—usually the district conservationist—responsible for compliance reviews in each of NRCS's 2,549 field offices that conducted compliance reviews during the period 1998 through 2001 to obtain information on that official's understanding and implementation of the conservation provisions, as well as the official's views on the effectiveness of these provisions. To obtain the views of each field office official, we developed an electronic questionnaire that was posted on GAO's home page on the Internet. In developing the questionnaire, we met with officials in NRCS's headquarters to gain a thorough understanding of highly erodible land and wetlands conservation issues. We also shared a draft copy of the questionnaire with these officials who provided us comments including technical corrections. We then pretested the questionnaire with two NRCS district conservationists in Texas, and one in Maryland and Virginia. During these visits, we asked the officials to fill out the survey over the Internet. After completing the survey, we interviewed the respondents to ensure that (1) the questions were clear and unambiguous, (2) the terms we used were precise, (3) the questionnaire did not place an undue burden on the agency officials completing it, and (4) the questionnaire was independent and unbiased. On the basis of the feedback from the pretests, we modified the questions as appropriate.

Information about accessing the questionnaire was provided via E-mail for those NRCS staff selected to participate in the survey. The survey was activated, and staff informed of its availability on September 10, 2002; it was available until October 2, 2002. To ensure security and data integrity, we provided each NRCS field official with a password that allowed him or her to access and complete a questionnaire for the local office. No one else could access that questionnaire or edit its data. We also provided these officials with a pledge of confidentiality to ensure their candor in completing the survey.

We received responses from 2,015, or 79 percent, of the officials surveyed. Table 3 shows the number of field offices that participated in our survey and each state's response rate. The results of our survey are summarized in appendix V.¹ For survey results stratified by state, see a special publication entitled *Agricultural Conservation: Survey Results on USDA's Implementation of Food Security Act Compliance Provisions (GAO-03-492SP)*, which is available on the Internet at <http://www.gao.gov/cgi-bin/getrpt?gao-03-492SP>.

¹ In addition to responding to our survey questions, many of these officials also provided us with written comments. Because of the volume of these written comments as well as the need to ensure the confidentiality of individual responses, these comments have not been included in appendix V.

Appendix II: Objectives, Scope, and Methodology

Table 3: Number of Field Offices Participating in Our Survey That Regularly Conduct Compliance Reviews and the Response Rate

State	Field offices surveyed	Field offices responding	Percent response rate
Alabama	62	50	80.6
Alaska	4	4	100.0
Arizona	14	12	85.7
Arkansas	63	45	71.4
California	49	33	67.3
Colorado	55	44	80.0
Connecticut	1	1	100.0
Delaware	1	1	100.0
Florida	42	31	73.8
Georgia	84	61	72.6
Hawaii	5	5	100.0
Idaho	39	28	71.8
Illinois	97	77	79.4
Indiana	79	63	79.7
Iowa	108	81	75.0
Kansas	109	94	86.2
Kentucky	91	73	80.2
Louisiana	49	45	91.8
Maine	12	11	91.7
Maryland	22	15	68.2
Massachusetts	7	6	85.7
Michigan	60	48	80.0
Minnesota	83	69	83.1
Mississippi	80	66	82.5
Missouri	104	80	76.9
Montana	61	45	73.8
Nebraska	82	73	89.0
Nevada	7	5	71.4
New Hampshire	6	5	83.3
New Jersey	7	4	57.1
New Mexico	35	24	68.6
New York	47	39	83.0
North Carolina	86	72	83.7
North Dakota	56	50	89.3
Ohio	76	61	80.3
Oklahoma	79	62	78.5
Oregon	27	21	77.8
Pennsylvania	46	40	87.0
Rhode Island	2	1	50.0
South Carolina	42	29	69.0
South Dakota	65	54	83.1

Appendix II: Objectives, Scope, and Methodology

State	Field offices surveyed	Field offices responding	Percent response rate
Tennessee	71	55	77.5
Texas	201	157	78.1
Utah	21	15	71.4
Vermont	8	6	75.0
Virginia	54	41	75.9
Washington	34	26	76.5
West Virginia	32	23	71.9
Wisconsin	61	52	85.2
Wyoming	23	12	52.2
Total	2,549	2,015	79.1

Source: GAO.

We also visited 20 NRCS field offices located in 19 counties in 5 states (Arkansas, Colorado, Nebraska, North Dakota, and Texas) to discuss implementation of the compliance provisions with relevant staff and to review documentation of compliance decisions, including waivers, in order to determine the basis for these decisions. We selected these field offices on the basis of such criteria as the amount of highly erodible cropland covered by the office that is subject to the conservation provisions, geographic dispersion, and apparent anomalies in USDA data related to compliance reviews, waivers, and penalties assessed (such as an office that appears to issue an inordinately large number of waivers). Specifically, in these field offices, we spoke with the district conservationist and/or other staff and reviewed documentation on file, including Form AD-1026 (referrals for highly erodible land and/or wetlands determinations); aerial photography; conservation assistance notes; conservation plans; soil loss computations; status review results; and correspondence, including requests for waivers.

In addition, we reviewed relevant studies prepared by USDA's Office of Inspector General and the Congressional Research Service, as well as our own past reports. We also reviewed annual Food Security Act status (compliance) reviews prepared by NRCS or FSA, and interviewed officials from these agencies in the field and headquarters. Furthermore, we reviewed USDA's *Fiscal Year 2003 Annual Performance Plan and Revised Plan for Fiscal Year 2002* and NRCS's *Initial Performance Plan for Fiscal Year 2003 and Revised Plan for Fiscal Year 2002* to determine what performance goals and measures USDA has established for soil erosion reduction and wetlands conservation.

To determine how often FSA waives NRCS's noncompliance decisions, we examined FSA's database on violations and benefits withheld or waivers

granted for crop years 1993 through 2001 to determine trends in assessing penalties for noncompliance. We also spoke with FSA field and headquarters staff regarding the reasons for waiving NRCS's noncompliance determinations and reviewed relevant documentation, including the minutes of county committee meetings, correspondence files, and appeal files. In addition, we reviewed FSA guidance, including its manual on highly erodible land conservation and wetlands conservation provisions.

Finally, to determine the extent to which the conservation provisions have helped to reduce soil erosion and loss of wetlands, we reviewed the results of USDA's National Resources Inventory and other related studies. In addition, we spoke with officials from USDA's Economic Research Service; the Department of the Interior's Fish and Wildlife Service; farm organizations, including the American Farm Bureau Federation and American Soybean Association; and conservation groups, including Ducks Unlimited, the Soil and Water Conservation Society, the Sustainable Agriculture Coalition, and the Wildlife Management Institute.

We conducted our review from April 2002 through February 2003 in accordance with generally accepted auditing standards. Although we did not independently assess the accuracy and reliability of the USDA data we used, we reviewed the data for reasonableness among regions and compared them with data in other USDA reports.

Appendix III: Results of NRCS's Compliance Reviews, by State, Crop Years 2000 and 2001

Table 4: Results of NRCS's Compliance Reviews Showing Violations and Waivers by State, Crop Year 2000

State	Tracts with violations		Total
	Not applying conservation practices on highly erodible land	Wetlands violation	
Alabama	3	1	4
Alaska	0	0	0
Arizona	0	0	0
Arkansas	3	2	5
California	0	0	0
Colorado	0	0	0
Connecticut	0	0	0
Delaware	0	0	0
Florida	0	0	0
Georgia	1	0	1
Hawaii	0	0	0
Idaho	2	0	2
Illinois	58	4	62
Indiana	5	1	6
Iowa	58	0	58
Kansas	4	5	9
Kentucky	0	0	0
Louisiana	2	0	2
Maine	0	1	1
Maryland	0	0	0
Massachusetts	0	0	0
Michigan	1	0	1
Minnesota	5	19	24
Mississippi	0	0	0
Missouri	10	3	13
Montana	0	0	0
Nebraska	52	1	53
Nevada	0	0	0
New Hampshire	0	0	0
New Jersey	2	0	2
New Mexico	1	0	1
New York	9	1	10
North Carolina	0	0	0
North Dakota	4	173	177
Ohio	2	0	2
Oklahoma	0	0	0
Oregon	1	0	1

**Appendix III: Results of NRCS's Compliance
Reviews, by State, Crop Years 2000 and 2001**

Tracts with NRCS waivers										
Weather diseases pests	Economic or personal hardship	Minor or technical	Technical assistance	Conditionally applying conservation practices	Exemption for a specific tract	Total	Total tracts with waivers and violations	Tracts reviewed for compliance ^a	Waivers and violations as a percentage of tracts reviewed	
1	0	0	0	0	0	1	5	284	1.8	
0	0	0	0	0	0	0	0	4	0	
1	0	0	0	0	0	1	1	24	4.2	
1	0	0	0	1	0	2	7	322	2.2	
0	0	0	0	0	0	0	0	255	0	
3	0	0	1	0	0	4	4	449	0.9	
0	0	0	0	0	0	0	0	11	0	
0	0	0	0	0	0	0	0	49	0	
0	0	0	0	0	0	0	0	60	0	
0	0	1	1	0	0	2	3	337	0.9	
0	0	0	0	0	0	0	0	1	0	
0	0	4	0	1	0	5	7	199	3.5	
14	0	45	0	10	2	71	133	1,184	11.2	
0	1	1	0	0	0	2	8	489	1.6	
0	1	143	0	32	0	176	234	1,512	15.5	
7	2	0	0	0	0	9	18	899	2.0	
2	0	0	0	0	0	2	2	762	0.3	
0	0	0	0	0	0	0	2	242	0.8	
0	0	0	0	0	0	0	1	53	1.9	
0	0	0	0	0	0	0	0	109	0	
0	0	0	0	0	0	0	0	23	0	
0	0	0	0	1	0	1	2	207	1.0	
3	0	33	0	2	7	45	69	572	12.1	
0	0	0	0	0	1	1	1	426	0.2	
2	0	2	0	0	0	4	17	838	2.0	
1	0	1	0	0	0	2	2	832	0.2	
3	30	44	2	0	8	87	140	1,031	13.6	
0	0	0	0	0	0	0	0	4	0	
0	0	0	0	0	0	0	0	8	0	
0	0	0	0	0	0	0	2	45	4.4	
4	0	0	1	0	0	5	6	76	7.9	
2	1	0	0	0	0	3	13	266	4.9	
0	2	4	0	0	0	6	6	553	1.1	
5	0	5	0	0	0	10	187	890	21.0	
2	0	0	2	1	0	5	7	357	2.0	
0	0	8	0	3	0	11	11	370	3.0	
0	0	0	0	0	1	1	2	105	1.9	

**Appendix III: Results of NRCS's Compliance
Reviews, by State, Crop Years 2000 and 2001**

Tracts with violations			
State	Not applying conservation practices on highly erodible land	Wetlands violation	Total
Pennsylvania	4	0	4
Rhode Island	0	0	0
South Carolina	1	0	1
South Dakota	1	0	1
Tennessee	1	0	1
Texas	1	0	1
Utah	0	0	0
Vermont	0	0	0
Virginia	0	0	0
Washington	7	0	7
West Virginia	0	0	0
Wisconsin	6	0	6
Wyoming	0	0	0
Total	244	211	455^b

**Appendix III: Results of NRCS's Compliance
Reviews, by State, Crop Years 2000 and 2001**

Tracts with NRCS waivers

Weather diseases pests	Economic or personal hardship	Minor or technical	Technical assistance	Conditionally applying conservation practices	Exemption for a specific tract	Total	Total tracts with waivers and violations	Tracts reviewed for compliance ^a	Waivers and violations as a percentage of tracts reviewed
5	1	4	0	1	0	11	15	165	9.1
0	0	0	0	0	0	0	0	2	0
0	0	0	0	0	0	0	1	330	0.3
0	1	1	0	0	0	2	3	430	0.7
0	0	1	0	5	0	6	7	361	1.9
0	0	6	0	0	0	6	7	942	0.7
0	0	0	0	0	0	0	0	47	0
1	0	0	0	0	0	1	1	42	2.4
1	0	2	0	0	0	3	3	158	1.9
0	1	1	0	0	1	3	10	185	5.4
0	0	0	0	0	0	0	0	45	0
1	1	26	0	1	0	29	35	625	5.6
0	0	0	0	0	0	0	0	79	0
59	41	332	7	58	20	517	972	17,259	5.6

Source: NRCS.

Notes: GAO's analysis of NRCS's data.

Violations occur when a farmer does not apply conservation practices on highly erodible land or the farmer's tract contains a potential wetlands violation. Waivers allow farmers to maintain eligibility for federal farm benefits when they are unable to apply a conservation practice because the farmer was prevented by severe or unusual conditions such as weather, disease, or pests; because the farmer acted in good faith, and without intent to violate the conservation provisions; because the farmer experienced an extreme personal hardship or unusual occurrence, such as illness or death; because failures were minor and technical in nature; because the farmer was identified in noncompliance by NRCS while providing on-site technical assistance; or because the farmer was conditionally applying practices until the approved conservation practices are completed. An on-site visit is not required when an exemption for a specific tract is approved.

^a Tracts reviewed for compliance includes 13,025 tracts randomly selected by NRCS headquarters and another 4,234 tracts added by NRCS field offices on the basis of referrals from other agencies, whistleblower complaints, and tracts that maintained eligibility for farm benefits based on previous year waivers.

^b Total tracts with violations largely reflects NRCS's preliminary noncompliance determinations, as of the date these data were compiled. Many of these determinations were subsequently reversed by NRCS—through granting variances or exemptions—on appeal from the affected farmers. Tracts referred by NRCS to FSA are only those tracts for which NRCS sustains its preliminary noncompliance determination.

Table 5: Results of NRCS's Compliance Reviews Showing Violations and Waivers by State, Crop Year 2001

State	Tracts with violations		Total
	Not applying conservation practices on highly erodible land	Wetlands violation	
Alabama	2	0	2
Alaska	0	0	0
Arizona	0	0	0
Arkansas	0	0	0
California	1	0	1
Colorado	4	0	4
Connecticut	0	0	0
Delaware	0	0	0
Florida	0	1	1
Georgia	1	0	1
Hawaii	0	0	0
Idaho	0	0	0
Illinois	33	2	35
Indiana	4	0	4
Iowa	72	0	72
Kansas	7	0	7
Kentucky	0	0	0
Louisiana	0	0	0
Maine	3	0	3
Maryland	0	0	0
Massachusetts	0	0	0
Michigan	1	0	1
Minnesota	8	15	23
Mississippi	0	0	0
Missouri	1	1	2
Montana	0	0	0
Nebraska	57	5	62
Nevada	0	0	0
New Hampshire	0	0	0
New Jersey	0	0	0
New Mexico	2	0	2
New York	3	0	3
North Carolina	5	0	5
North Dakota	3	66	69
Ohio	3	0	3
Oklahoma	2	0	2

**Appendix III: Results of NRCS's Compliance
Reviews, by State, Crop Years 2000 and 2001**

Tracts with NRCS waivers									
Weather, diseases, pests	Economic or personal hardship	Minor or technical	Technical assistance	Conditionally applying conservation practices	Exemption for a specific tract	Total	Total tracts with waivers and violations	Tracts reviewed for compliance ^a	Waivers and violations as a percentage of tracts reviewed
0	0	0	0	0	0	0	2	275	0.7
0	0	0	0	0	0	0	0	3	0
0	0	0	0	0	0	0	0	24	0
0	0	0	0	0	0	0	0	266	0
1	0	0	0	0	0	1	2	235	0.9
2	0	5	3	1	0	11	15	434	3.5
0	0	0	1	0	0	1	1	15	6.7
0	0	0	0	0	0	0	0	56	0
0	0	0	0	0	0	0	1	88	1.1
1	1	2	0	1	0	5	6	354	1.7
0	0	0	0	0	0	0	0	1	0
3	0	5	0	0	0	8	8	190	4.2
14	1	42	0	13	0	70	105	1,162	9.0
1	0	2	0	0	0	3	7	506	1.4
3	0	96	1	7	0	107	179	1,430	12.5
0	2	3	0	0	0	5	12	916	1.3
1	0	8	0	1	0	10	10	938	1.1
0	0	0	0	1	0	1	1	244	0.4
0	0	0	0	0	0	0	3	55	5.5
0	0	1	0	0	0	1	1	126	0.8
0	0	0	0	0	0	0	0	23	0
0	0	0	0	0	0	0	1	202	0.5
2	0	7	0	0	1	10	33	509	6.5
1	0	2	0	0	29	32	32	423	7.6
2	0	3	2	0	0	7	9	881	1.0
7	0	1	0	0	0	8	8	918	0.9
19	8	32	0	0	12	71	133	876	15.2
0	0	0	0	0	0	0	0	5	0
0	0	0	0	0	0	0	0	7	0
0	0	0	0	0	0	0	0	45	0
3	0	0	0	0	0	3	5	91	5.5
0	1	2	0	0	0	3	6	244	2.5
0	0	8	0	0	0	8	13	676	1.9
0	0	0	1	0	0	1	70	769	9.1
1	0	2	2	0	0	5	8	347	2.3
54	0	6	2	1	0	63	65	336	19.3

**Appendix III: Results of NRCS's Compliance
Reviews, by State, Crop Years 2000 and 2001**

State	Tracts with violations		Total
	Not applying conservation practices on highly erodible land	Wetlands violation	
Oregon	4	0	4
Pennsylvania	3	0	3
Rhode Island	0	0	0
South Carolina	1	0	1
South Dakota	1	0	1
Tennessee	1	0	1
Texas	2	0	2
Utah	0	0	0
Vermont	1	0	1
Virginia	1	0	1
Washington	6	1	7
West Virginia	0	0	0
Wisconsin	22	2	24
Wyoming	0	0	0
Total	254	93	347^b

**Appendix III: Results of NRCS's Compliance
Reviews, by State, Crop Years 2000 and 2001**

Tracts with NRCS waivers

Weather, diseases, pests	Economic or personal hardship	Minor or technical	Technical assistance	Conditionally applying conservation practices	Exemption for a specific tract	Total	Total tracts with waivers and violations	Tracts reviewed for compliance ^b	Waivers and violations as a percentage of tracts reviewed
0	0	0	0	0	0	0	4	104	3.8
0	0	3	0	0	0	3	6	209	2.9
0	0	0	0	0	0	0	0	2	0
0	0	0	0	0	0	0	1	266	0.4
0	0	0	0	0	0	0	1	476	0.2
1	0	4	0	0	0	5	6	440	1.4
3	0	8	0	0	0	11	13	981	1.3
0	0	0	0	0	0	0	0	50	0.0
0	0	0	0	0	4	4	5	50	10.0
1	0	1	0	0	0	2	3	218	1.4
1	0	1	0	0	0	2	9	215	4.2
0	0	0	0	0	0	0	0	98	0
0	0	27	2	1	0	30	54	835	6.5
0	0	0	0	0	0	0	0	94	0
121	13	271	14	26	46	491	838	17,708	4.7

Source: NRCS.

Notes: GAO's analysis of NRCS's data.

Violations occur when a farmer does not apply conservation practices on highly erodible land or the farmer's tract contains a potential wetlands violation. Waivers allow farmers to maintain eligibility for federal farm benefits when they are unable to apply a conservation practice because the farmer was prevented by severe or unusual conditions such as weather, diseases, or pests; because the farmer acted in good faith, and without intent to violate the conservation provisions; because the farmer experienced an extreme personal hardship or unusual occurrence, such as illness or death; because failures were minor and technical in nature; because the farmer was identified as being in noncompliance by NRCS while providing on-site technical assistance; or because the farmer was conditionally applying practices until the approved conservation practices are completed. An on-site visit is not required when an exemption for a specific tract is approved.

^a Tracts reviewed for compliance includes 13,544 tracts randomly selected by NRCS headquarters and another 4,164 tracts added by NRCS field offices on the basis of referrals from other agencies, whistleblower complaints, and tracts that maintained eligibility for farm benefits based on previous year waivers.

^b Total tracts with violations largely reflects NRCS's preliminary noncompliance determinations, as of the date these data were compiled. Many of these determinations were subsequently reversed by NRCS—through granting variances or exemptions—on appeal from the affected farmers. Tracts referred by NRCS to FSA are only those tracts for which NRCS sustains its preliminary noncompliance determination.

Appendix IV: USDA Benefits Denied Farmers Because of Conservation Compliance Violations, Crop Years 1993-2001

Table 6: USDA Benefits Denied Farmers by the Farm Service Agency for Violations of Conservation Provisions, Nationwide, Crop Years 1993-2001

Dollars in thousands

Crop year	Highly erodible land provisions				Wetlands provisions				Total benefits denied
	Tracts with violations	Farmers with violations	Benefits to be denied before appeals	Benefits denied	Tracts with violations	Farmers with violations	Benefits to be denied before appeals	Benefits denied	
1993	1,893	2,592	\$12,748	\$3,005	192	268	\$4,463	\$1,478	\$4,483
1994	1,530	2,303	10,692	2,243	109	180	4,153	1,382	3,625
1995	605	892	2,674	968	28	45	0	0	968
1996	402	491	1,266	492	96	141	1,036	439	931
1997	150	215	1,391	334	33	62	913	69	403
1998	167	220	1,932	301	38	48	1,962	430	731
1999	134	177	2,381	238	46	61	2,296	111	349
2000	118	160	3,617	404	35	36	1,253	231	635
2001	85	137	5,477	150	33	32	908	139	289
Total	5,084	7,187	\$42,178	\$8,135	610	873	\$16,984	\$4,279	\$12,414

Source: FSA.

Notes: GAO's analysis of FSA's data.

The total benefits denied includes price and income support payments, conservation payments, disaster payments, guaranteed loans, and crop insurance (through 1996). This total does not include an additional \$361,441 in benefits denied that were not tied directly to specific tracts in FSA's data.

Data in table do not include benefits denied participants in the peanut-marketing quota program or tobacco-marketing quota program, which are reported in pounds. The benefits denied total 2.1 million pounds for peanuts and 3.6 million pounds for tobacco.

Totals may differ from results presented in other tables in this report because of rounding.

**Appendix IV: USDA Benefits Denied Farmers
Because of Conservation Compliance
Violations, Crop Years 1993-2001**

Table 7: USDA Benefits Denied Farmers by the Farm Service Agency for Violations of Conservation Provisions by State, Crop Years 1993-2001

Dollars in thousands

State/ Highly erodible land	Tracts potentially subject to review in 2002 ^a		Tracts with violations				Farmers with violations	Benefits to be denied before appeals	Benefits denied	Percentage of benefits denied
	Potential wetlands	Total	Tracts reviewed for compliance ^b	Highly erodible land	Wetlands	Total				
Alabama 38,466	52,097	90,563	7,530	620	9	629	794	\$2,210	\$416	18.8
Alaska 210	187	397	57	0	0	0	0	0	0	0
Arizona 254	7,490	7,744	311	0	0	0	0	0	0	0
Arkansas 5,766	75,770	81,536	3,758	9	5	14	25	1,033	637	61.7
California 5,400	43,950	49,350	2,758	0	2	2	2	36	36	100.0
Colorado 41,948	21,347	63,295	9,520	88	0	88	71	1,231	283	23.0
Connecticut 1,378	2,557	3,935	307	5	0	5	4	3	3	100.0
Delaware 203	6,197	6,400	377	0	0	0	0	0	0	0
Florida 4,228	22,647	26,875	1,399	2	2	4	4	4	4	100.0
Georgia 20,967	78,813	99,780	6,586	24	16	40	60	1,260	587	46.6
Hawaii 18	365	383	15	0	0	0	0	0	0	0
Idaho 22,787	17,389	40,176	5,475	11	2	13	18	208	10	4.8
Illinois 101,018	187,292	288,310	18,619	355	32	387	657	5,195	869	16.7
Indiana 58,906	130,275	189,181	9,663	105	38	143	221	512	228	44.5
Iowa 128,783	124,755	253,538	21,076	926	62	988	1,703	20,559	2,136	10.4
Kansas 105,010	130,065	235,075	16,830	764	8	772	995	1,493	1,058	70.9
Kentucky 124,700	112,022	236,722	13,072	69	2	71	111	220	81	36.8
Louisiana 4,499	56,098	60,597	2,371	0	3	3	0	115	0	0
Maine 2,492	5,863	8,355	1,055	1	14	15	12	78	2	2.6
Maryland 8,208	11,071	19,279	2,389	16	1	17	24	101	7	6.9

**Appendix IV: USDA Benefits Denied Farmers
Because of Conservation Compliance
Violations, Crop Years 1993-2001**

Dollars in thousands										
Tracts potentially subject to review in 2002 ^a			Tracts with violations				Benefits to be denied before appeals			
State/ Highly erodible land	Potential wetlands	Total	Tracts reviewed for compliance ^b	Highly erodible land	Wetlands	Total	Farmers with violations	Benefits to be denied before appeals	Benefits denied	Percentage of benefits denied
Massachusetts 901	4,444	5,345	308	0	0	0	0	0	0	0
Michigan 17,644	96,036	113,680	4,113	25	4	29	47	755	506	67.0
Minnesota 40,691	150,473	191,164	9,270	23	124	147	162	2,304	829	36.0
Mississippi 30,675	54,595	85,270	7,120	65	3	68	89	1,237	47	3.8
Missouri 89,090	83,219	172,309	13,808	611	28	639	751	2,291	645	28.2
Montana 74,522	89,434	163,956	14,562	6	0	6	3	150	15	10.0
Nebraska 86,604	83,594	170,198	15,710	209	58	267	474	6,366	1,797	28.2
Nevada 761	1,213	1,974	221	0	0	0	0	0	0	0
New Hampshire 376	1,759	2,135	124	3	0	3	1	1	1	100.0
New Jersey 2,174	4,269	6,443	584	23	0	23	6	37	10	27.0
New Mexico 6,953	10,256	17,209	2,151	4	0	4	4	9	8	88.9
New York 27,314	27,072	54,386	5,582	43	2	45	83	246	80	32.5
North Carolina 57,574	143,368	200,942	12,164	240	7	247	404	691	152	22.0
North Dakota 48,626	100,820	149,446	11,006	53	17	70	100	1,320	103	7.8
Ohio 46,647	117,532	164,179	7,118	49	8	57	60	1,047	69	6.6
Oklahoma 45,658	81,545	127,203	9,098	196	7	203	313	1,508	334	22.1
Oregon 6,318	16,264	22,582	2,433	18	3	21	27	345	66	19.1
Pennsylvania 49,590	11,639	61,229	5,937	53	4	57	48	62	55	88.7
Rhode Island 51	336	387	24	0	0	0	0	0	0	0
South Carolina 10,016	56,056	66,072	3,513	23	1	24	33	426	304	71.4
South Dakota 28,528	119,738	148,266	8,992	14	38	52	55	1,281	101	7.9

**Appendix IV: USDA Benefits Denied Farmers
Because of Conservation Compliance
Violations, Crop Years 1993-2001**

Dollars in thousands											
Tracts potentially subject to review in 2002 ^a			Tracts with violations						Benefits to be denied before appeals		
State/ Highly erodible land	Potential wetlands	Total	Tracts reviewed for compliance ^b	Highly erodible land	Wetlands	Total	Farmers with violations	Benefits to be denied before appeals	Benefits denied	Percentage of benefits denied	
Tennessee											
78,913	98,542	177,455	9,980	35	8	43	29	42	17	40.5	
Texas											
81,264	200,918	282,182	17,282	32	4	36	69	1,477	341	23.1	
Utah											
1,618	14,047	15,665	765	3	1	4	4	41	13	31.7	
Vermont											
1,645	4,671	6,316	568	8	0	8	4	10	10	100.0	
Virginia											
37,565	46,600	84,165	7,409	112	4	116	153	193	67	34.7	
Washington											
17,106	23,195	40,301	5,064	31	4	35	61	1,078	25	2.3	
West Virginia											
3,815	9,538	13,353	1,146	2	0	2	3	3	3	100.0	
Wisconsin											
81,812	80,161	161,973	11,640	206	89	295	386	2,421	356	14.7	
Wyoming											
5,167	11,330	16,497	1,425	1	0	1	2	124	124	100.0	
Total											
1,654,859	2,828,914	4,483,773	312,285	5,084	610	5,694	8,072	\$59,723	\$12,435	20.8	

Sources: NRCS and FSA.

Notes: GAO's analysis of NRCS and FSA data.

Compliance reviews are conducted by NRCS. To conduct these reviews, NRCS randomly selects a sample of land tracts from an FSA database containing more than 4.5 million tracts of land owned or leased by farmers receiving USDA program benefits. Of the 4.5 million tracts, 1.7 million are designated as highly erodible land, and the remaining 2.8 million are designated as potential wetlands. Nationwide, about 60 percent of the sample tracts are selected from highly erodible land. The remaining 40 percent are selected from tracts that have the potential to contain wetlands. This latter group of tracts is separated into two groups—hydric and nonhydric. The hydric group includes tracts located in counties where more than 20 percent of the soil is classified as hydric—that is, the land is flooded long enough during a growing season to support plants that can grow in water or in soil too waterlogged for most plants to survive. The remaining tracts are placed in the nonhydric group.

Benefits denied include price and income support payments, conservation payments, disaster payments, guaranteed loans, and crop insurance (through 1996). Benefits denied do not include \$361,441 that could not be directly associated with specific tracts.

Data in table do not include benefits denied participants in the peanut-marketing quota program or tobacco-marketing quota program, which are reported in pounds. The benefits denied total 2.1 million pounds for peanuts and 3.6 million pounds for tobacco.

Totals may differ from results presented in other tables in this report because of rounding.

**Appendix IV: USDA Benefits Denied Farmers
Because of Conservation Compliance
Violations, Crop Years 1993-2001**

^a Summary data on tracts potentially subject to review during 1993 through 2001 were not available. Data depicted is for 2002 only to provide a frame of reference as to the total number of tracts in each state potentially subject to review. However, the number of tracts subject to review would not change significantly from one year to the next. Prior to 1996, USDA did not identify tracts with the potential for wetlands.

^b Summary data on the number of tracts reviewed for each state during 1993 through 2001 is depicted. However, these data do not distinguish between highly erodible land and potential wetlands.

Table 8: Reasons for Reinstating USDA Benefits by State, Crop Years 1993-2001

State	Farm Service Agency reinstatements				NRCS reversed because of appeal decision	Misaction/misinformation	NRCS and other reinstatements ^a	
	Tenant waivers	Landlord waivers	Good faith waivers on highly erodible land	Good faith waivers on wetlands			Marketing quota card or price support loan issued before violation determination	Other
Alabama	21	8	285	20	5	0	41	47
Alaska	0	0	0	0	0	0	0	0
Arizona	0	0	0	0	0	0	0	0
Arkansas	0	0	24	0	0	0	0	1
California	0	0	0	0	0	0	0	0
Colorado	0	2	35	0	4	0	0	1
Connecticut	0	0	0	0	0	0	0	0
Delaware	0	0	0	0	0	0	0	0
Florida	0	0	0	0	0	0	0	0
Georgia	0	0	22	13	0	0	11	2
Hawaii	0	0	0	0	0	0	0	0
Idaho	6	0	13	1	0	0	0	0
Illinois	44	37	296	47	27	0	0	106
Indiana	0	1	30	91	8	0	0	30
Iowa	579	117	1,331	157	43	2	0	108
Kansas	30	14	33	5	14	0	0	10
Kentucky	0	0	0	0	0	0	0	0
Louisiana	0	0	0	0	0	0	0	0
Maine	0	0	0	5	0	0	0	0
Maryland	0	0	14	0	0	0	0	7
Massachusetts	0	0	0	0	0	0	0	0
Michigan	0	0	35	3	0	6	0	0
Minnesota	0	0	14	37	15	5	0	17
Mississippi	0	0	31	3	0	0	0	0
Missouri	6	24	17	36	50	0	0	43
Montana	0	0	8	0	0	0	0	1
Nebraska	1	28	292	257	0	1	0	88

**Appendix IV: USDA Benefits Denied Farmers
Because of Conservation Compliance
Violations, Crop Years 1993-2001**

State	Farm Service Agency reinstatements				NRCS and other reinstatements ^a				
	Tenant waivers	Landlord waivers	Good faith waivers on highly erodible land	Good faith waivers on wetlands	NRCS reversed because of appeal decision	Misaction/ misinformation	Marketing quota card or price support loan issued before violation determination	Other	
Nevada	0	0	0	0	0	0	0	0	0
New Hampshire	0	0	0	0	0	0	0	0	0
New Jersey	0	0	0	0	0	0	0	0	0
New Mexico	0	0	0	0	1	0	0	0	0
New York	0	0	23	0	0	0	0	0	0
North Carolina	6	0	164	0	17	0	14	100	
North Dakota	0	6	75	81	0	0	0	7	
Ohio	0	1	23	4	0	0	0	1	
Oklahoma	22	10	95	0	9	0	0	7	
Oregon	0	0	6	18	1	0	0	0	
Pennsylvania	0	0	0	0	0	0	0	0	
Rhode Island	0	0	0	0	0	0	0	0	
South Carolina	0	1	10	0	0	0	0	7	
South Dakota	9	2	9	73	0	0	0	20	
Tennessee	0	0	3	0	0	0	2	0	
Texas	0	0	57	34	0	0	0	19	
Utah	0	0	0	0	0	0	0	0	
Vermont	0	0	0	0	0	0	0	0	
Virginia	2	0	28	0	0	0	8	2	
Washington	0	0	0	0	0	0	0	0	
West Virginia	0	0	0	0	0	0	0	0	
Wisconsin	3	2	75	33	55	0	0	47	
Wyoming	0	0	0	0	0	0	0	0	
Total	729	253	3,048	918	249	14	76	671	

Source: FSA.

Note: GAO's analysis of FSA's data.

^a Includes reinstatements because of decisions made by NRCS's State Conservationists, USDA's National Appeals Division, and judicial courts on farmers' appeals.

Appendix V: Results of Survey on the Implementation and Effectiveness of the Conservation Provisions

Highly Erodible Land Conservation (HELIC) Provisions

Q1. During calendar years 1998-2001, how many status reviews on highly erodible land did your field office conduct?

None (percent)	1-10 (percent)	11-20 (percent)	21-30 (percent)	31-40 (percent)	41-50 (percent)	More than 50 (percent)	Number of respondents
8.0	34.0	19.1	14.0	6.9	5.2	12.8	2,002

Q2. In your experience, compared with neighboring counties, how closely does your county monitor HELIC provisions?

Much more closely (percent)	More closely (percent)	About the same (percent)	Less closely (percent)	Much less closely (percent)	Number of respondents
2.1	7.8	88.2	1.5	0.4	1,759

Q3. In your opinion, overall, what level of understanding do farmers in your county have about what constitutes a substantial reduction in soil erosion?

Very great understanding (percent)	Great understanding (percent)	Moderate understanding (percent)	Some understanding (percent)	Little or no understanding (percent)	Number of respondents
1.6	22.4	44.8	24.3	6.9	1,833

Q4. In your opinion, what level of understanding do farmers in your county have of HELIC provisions?

Very great understanding (percent)	Great understanding (percent)	Moderate understanding (percent)	Some understanding (percent)	Little or no understanding (percent)	Number of respondents
1.9	24.3	48.0	21.5	4.4	1,835

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q5. In your experience, to what extent are farmers in your county willing to comply with HELC provisions?

Very great extent (percent)	Great extent (percent)	Moderate extent (percent)	Some extent (percent)	Little or no extent (percent)	Number of respondents
9.0	53.5	28.3	8.3	1.0	1,830

Q6. In your experience, how has farmers' willingness to comply with HELC provisions changed since 1996?

Much more willing to comply (percent)	More willing to comply (percent)	Neither more willing nor less willing to comply (percent)	Less willing to comply (percent)	Much less willing to comply (percent)	Number of respondents
3.9	36.1	53.9	5.5	0.5	1,813

Q7. In your county, what percent of the highly erodible acres have the following soil-loss tolerance levels ("T")?

	Mean	Minimum	Maximum	Median	Number of respondents
1T	28.9	0.0	100	10.0	1,382
2T	23.3	0.0	100	15.0	1,471
3T	24.1	0.0	100	15.0	1,448
4T	13.9	0.0	100	7.0	1,263
5T	35.9	0.0	100	25.0	1,367
Greater than 5T	2.4	0.0	100	0.0	834

Q8. For what percent of the highly erodible acres in your county are alternative conservation systems approved?

Mean	Minimum	Maximum	Median	Number of respondents
44.2	0.0	100	40.0	1,817

Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions

Q9. Does your field office currently require producers to have a written conservation plan for highly erodible land?

Yes (percent)	No (percent)	Number of respondents
84.7	15.3	1,816

Opinions about HEL Conservation

Q10. In your opinion, should USDA farm commodity program participants be required to control soil erosion on their land?

Definitely yes (percent)	Probably yes (percent)	Neither yes nor no (percent)	Probably no (percent)	Definitely no (percent)	Number of respondents
74.8	20.1	3.5	0.9	0.8	1,823

Q11. In general, is it economically feasible for producers in your county to reduce the soil erosion on their land to the soil loss tolerance level?

Definitely yes (percent)	Probably yes (percent)	Neither yes nor no (percent)	Probably no (percent)	Definitely no (percent)	Number of respondents
40.3	42.4	5.1	9.4	2.9	1,828

Q12. In your opinion, how effective, if at all, are the current HELC provisions in reducing soil erosion on land in production in your county?

Extremely effective (percent)	Very effective (percent)	Moderately effective (percent)	Somewhat effective (percent)	Slightly or not effective (percent)	Number of respondents
5.4	36.9	35.3	15.9	6.5	1,818

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q13. In your opinion, how effective, if at all, would HELC provisions be in reducing soil erosion in your county if no alternative conservation systems were allowed?

Extremely effective (percent)	Very effective (percent)	Moderately effective (percent)	Somewhat effective (percent)	Slightly or not effective (percent)	Number of respondents
5.1	27.6	27.9	22.7	16.7	1,686

Q14. In your opinion, how effective, if at all, are sodbuster provisions in limiting conversion of native vegetation to cropland?

Extremely effective (percent)	Very effective (percent)	Moderately effective (percent)	Somewhat effective (percent)	Slightly or not effective (percent)	Number of respondents
3.7	17.7	19.7	20.5	38.5	1,659

Q15. In your opinion, to what extent do USDA farm commodity and crop insurance programs act as incentives to convert native vegetation to cropland?

Very great extent (percent)	Great extent (percent)	Moderate extent (percent)	Some extent (percent)	Little or no extent (percent)	Number of respondents
11.5	16.6	15.9	16.1	39.8	1,664

Q16. Compared with other conservation programs that attempt to achieve long-term soil conservation, how effective, if at all, are HELC provisions in your county?

Much more effective (percent)	More effective (percent)	About the same (percent)	Less effective (percent)	Much less effective (percent)	Number of respondents
4.0	26.3	35.3	23.6	10.8	1,785

HELIC Violations

Q17. Did your county have any HELIC violations in calendar years 1998-2001?

Yes (percent)	No (percent)	Number of respondents
22.8	77.2	1,840

Q18. Of the HELIC violations referred to or received by the Farm Service Agency (FSA) in your county, what portion are granted a good faith exemption by the FSA county committee?

All or almost all (percent)	More than half (percent)	About half (percent)	Less than half (percent)	None or almost none (percent)	Number of respondents
60.1	7.9	5.1	3.6	23.4	393

Q19. How often are decisions to grant HELIC good faith exemptions by the Farm Service Agency county committees properly supported?

Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Number of respondents
28.6	35.0	5.8	19.6	10.9	311

Q20. Since January 1, 1997, of the USDA farm program participants who have violated HELIC provisions in your county, about what portion lost any benefits?

0 to less than 5% (percent)	5 to less than 10% (percent)	10 to less than 20% (percent)	20 to less than 30% (percent)	30 to less than 50% (percent)	50% or more (percent)	Number of respondents
74.9	7.0	2.2	1.9	3.2	10.8	371

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q21. Consider all the tracts of land in the geographical area where your office provides assistance. About what percent of these tracts are in violation of HELC provisions and have not been reported?

0 to less than 5% (percent)	5 to less than 10% (percent)	10 to less than 20% (percent)	20 to less than 30% (percent)	30 to less than 50% (percent)	50% or more (percent)	Number of respondents
33.4	23.3	20.7	13.0	7.4	2.1	377

Legislative Effects

Q22. The Omnibus Appropriations Act of 2000 eliminated the provision that precluded producers from receiving continuing Conservation Reserve Program payments if they converted grassland to cropland, commonly referred to as "supersodbuster." Of the grassland that has been converted to cropland in your county, what portion do you believe is a result of this change?

All or almost all (percent)	More than half (percent)	About half (percent)	Less than half (percent)	None or almost none (percent)	Number of respondents
1.9	4.7	4.1	10.6	78.8	1,182

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q23. In your county, how did the following changes in the Food, Agriculture, Conservation, and Trade Act of 1990 (farm bill) strengthen or weaken monitoring of HELC compliance ?

	Significantly strengthened (percent)	Strengthened (percent)	Neither strengthened nor weakened (percent)	Weakened (percent)	Significantly weakened (percent)	Number of respondents
Instituted good faith exemption allowing graduated reductions in program benefits for HELC violations	0.8	11.8	61.4	19.3	6.6	1,530
Instituted variance for compliance violations that are considered technical and minor in nature	1.8	23.7	58.6	13.6	2.3	1,594
Instituted tenant exemption	0.4	8.3	63.8	23.3	4.3	1,369
Required additional farm program benefits be subject to denial for violations of HELC	4.0	45.9	47.2	1.9	1.0	1,545
Other (please specify in text box below)	4.1	2.0	54.1	11.2	28.6	98

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q24. In your county, how did each of the following changes in the Federal Agriculture Improvement and Reform Act of 1996 (farm bill) strengthen or weaken monitoring of HELC compliance?

	Significantly strengthened (percent)	Strengthened (percent)	Neither strengthened nor weakened (percent)	Weakened (percent)	Significantly weakened (percent)	Number of respondents
Instituted variance for weather, pest, diseases, or other natural disasters	2.0	26.4	59.8	10.2	1.6	1,660
Instituted exemption and grace period for compliance violations found while providing on-site technical assistance	2.1	29.7	51.6	13.4	3.2	1,639
Instituted Farm Service Agency variance and grace period for economic hardship relief	0.8	21.1	59.2	14.8	4.1	1,548
Instituted provision allowing producers to self-certify compliance with their conservation plan when applying for benefits	1.4	13.6	46.8	27.2	11.1	1,625
Eliminated graduated reductions in program benefits for conservation compliance violations	0.5	16.7	62.9	16.3	3.6	1,482
Eliminated crop insurance payments from the list of benefits subject to denial for violations of HELC	0.4	11.5	51.8	27.9	8.3	1,476
Revised good faith exemption by removing the 1-in-5 year rule and allowed for compliance grace period	0.9	16.2	58.2	19.5	5.1	1,475
Other (please specify in text box below)	1.4	1.4	54.9	11.3	31.0	71

Wetland Conservation (WC) Provisions

Q25. During calendar years 1998-2001, how many wetland conservation status reviews did your field office conduct?

None (percent)	1-10 (percent)	11-20 (percent)	21-30 (percent)	31-40 (percent)	41-50 (percent)	More than 50 (percent)	Number of respondents
17.7	51.1	14.7	8.2	2.9	2.2	3.4	1,999

Q26. In your experience, compared with neighboring counties, how closely does your field office monitor wetland conservation provisions?

Much more closely (percent)	More closely (percent)	About the same (percent)	Less closely (percent)	Much less closely (percent)	Number of respondents
2.9	11.6	83.3	2.0	0.3	1,578

Q27. In your opinion, what level of understanding do farmers in your county have of wetland conservation provisions?

Very great understanding (percent)	Great understanding (percent)	Moderate understanding (percent)	Some understanding (percent)	Little or no understanding (percent)	Number of respondents
3.3	21.4	37.2	27.6	10.5	1,640

Q28. In your experience, to what extent are farmers in your county willing to comply with wetland conservation provisions?

Very great extent (percent)	Great extent (percent)	Moderate extent (percent)	Some extent (percent)	Little or no extent (percent)	Number of respondents
6.9	36.3	34.0	19.0	3.9	1,633

Opinions about Wetlands Conservation

Q29. In your county, how effective are swampbuster provisions at limiting the conversion of wetlands to cropland?

Extremely effective (percent)	Very effective (percent)	Moderately effective (percent)	Somewhat effective (percent)	Slightly or not effective (percent)	Number of respondents
13.4	42.2	23.4	14.4	6.5	1,574

Q30. In your opinion, compared with large wetlands in your county, how important is the protection of small wetlands?

Much more important (percent)	More important (percent)	About the same (percent)	Less important (percent)	Much less important (percent)	Number of respondents
5.0	15.4	48.1	19.5	11.9	1,588

Q31. In your opinion, should USDA farm program participants be required to follow wetland conservation provisions on their land?

Definitely yes (percent)	Probably yes (percent)	Neither yes nor no (percent)	Probably no (percent)	Definitely no (percent)	Number of respondents
52.9	33.5	6.4	5.7	1.5	1,617

Wetland Conservation Violations

Q32. Did your county have any wetland conservation violations in calendar years 1998-2001?

Yes (percent)	No (percent)	Number of respondents
27.4	72.6	1,628

Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions

Q33. Since January 1, 1997, of the USDA farm program participants who have violated wetland conservation provisions in your county, about what percent lost any benefits?

0 to less than 5% (percent)	5 to less than 10% (percent)	10 to less than 20% (percent)	20 to less than 30% (percent)	30 to less than 50% (percent)	50% or more (percent)	Number of respondents
79.6	2.9	1.5	0.7	0.7	14.5	407

Q34. Of the wetland violations referred to or received by the Farm Service Agency (FSA) in your county, about what portion are granted a good faith exemption by the FSA county committee?

All or almost all (percent)	More than half (percent)	About half (percent)	Less than half (percent)	None or almost none (percent)	Number of respondents
53.1	8.2	5.0	6.7	26.9	401

Q35. How often are decisions to grant wetland good faith exemptions by the Farm Service Agency county committees in your county properly supported?

Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Number of respondents
37.7	30.2	7.5	14.2	10.4	318

Q36. In your opinion, what level of technical improvements could be made to the tools, techniques, or procedures to complete certified wetland determinations?

Very great improvement (percent)	Great improvement (percent)	Moderate improvement (percent)	Some improvement (percent)	Little or no improvement (percent)	Number of respondents
11.3	23.7	28.3	21.4	15.2	434

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q37. To what extent are certified wetland determinations made on a less than whole tract basis?

Very great extent (percent)	Great extent (percent)	Moderate extent (percent)	Some extent (percent)	Little or no extent (percent)	Number of respondents
20.0	20.5	15.9	12.3	31.2	439

Q38. Consider the geographical area where you provide assistance. Of the tracts that are in violation of wetland conservation provisions, about what percent have not been reported?

0 to less than 5% (percent)	5 to less than 10% (percent)	10 to less than 20% (percent)	20 to less than 30% (percent)	30 to less than 50% (percent)	50% or more (percent)	Number of respondents
48.1	20.2	14.3	6.7	3.0	7.7	405

Q39. If you find a converted wetland on lands owned or operated by a USDA program participant, how often do you do the following?

	Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Number of respondents
Notify the person by sending a certified wetland determination, detailing the potential violation	52.1	16.1	4.4	8.1	19.3	409
Inform the person orally, not in writing, detailing the potential violation	28.7	17.1	5.1	12.8	36.4	415
Work with the person to restore or obtain a mitigation exemption for the wetland in order to maintain benefits	62.2	19.8	4.3	8.0	5.8	415
Decide if any other exemption applies to this wetland conversion	52.6	19.3	4.8	10.0	13.3	399

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Legislative Effects

Q40. In your county, how did each of the following changes in the Food, Agriculture, Conservation, and Trade Act of 1990 (farm bill) strengthen or weaken monitoring of wetland conservation compliance?

	Significantly strengthened (percent)	Strengthened (percent)	Neither strengthened nor weakened (percent)	Weakened (percent)	Significantly weakened (percent)	Number of respondents
Instituted good faith exemption allowing graduated reductions in program benefits for wetland conservation violations	1.8	13.5	48.0	28.1	8.7	392
Instituted minimal effects exemption	2.8	26.1	47.5	18.0	5.6	394
Instituted mitigation exemption for restoring a prior converted wetland	5.0	31.7	51.3	8.6	3.4	382
Instituted requirement for agreement between NRCS and U.S. Fish and Wildlife Service on mitigation plans and technical determinations	1.2	26.8	54.6	11.4	6.0	403
Instituted new trigger mechanism for swampbuster violations	5.3	33.3	55.8	3.5	2.1	339
Required additional farm program benefits be subject to denial for violations of wetland conservation	5.5	58.5	34.5	0.8	0.8	400
Revised definition of a wetland to include three conditions that must be present	8.0	44.1	40.9	4.8	2.2	413
Other (please specify in text box below)	15.8	10.5	42.1	5.3	26.3	19

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q41. In your county, how did each of the following changes in the Federal Agriculture Improvement and Reform Act of 1996 (farm bill) strengthen or weaken monitoring of wetland conservation compliance?

	Significantly strengthened (percent)	Strengthened (percent)	Neither strengthened nor weakened (percent)	Weakened (percent)	Significantly weakened (percent)	Number of respondents
Instituted more options for mitigation including enhancement or creation of wetlands	3.9	37.6	48.0	7.8	2.7	410
Eliminated graduated reductions in program benefits for compliance violations	0.8	25.6	54.8	15.0	3.9	387
Eliminated the requirement for agreement between NRCS and U.S. Fish and Wildlife Service on mitigation plans and technical determinations	5.3	23.6	54.5	13.3	3.3	398
Revised good faith exemption by removing the 1-in-10 year rule and allowed for compliance grace period	1.1	15.1	53.7	23.6	6.6	365
Other (please specify in text box below)	13.3	0.0	60.0	0.0	26.7	15

Status Reviews

Q42. How effective are status reviews in monitoring compliance with HELC provisions?

Extremely effective (percent)	Very effective (percent)	Moderately effective (percent)	Somewhat effective (percent)	Slightly or not effective (percent)	Number of respondents
5.6	26.3	32.1	23.0	13.0	1,939

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q43. How effective are status reviews in monitoring compliance with wetland conservation provisions?

Extremely effective (percent)	Very effective (percent)	Moderately effective (percent)	Somewhat effective (percent)	Slightly or not effective (percent)	Number of respondents
4.6	24.1	29.6	22.3	19.4	1,864

Q44. How effective is coordination between NRCS and FSA in implementing compliance with the HELC and wetland conservation provisions, overall?

Extremely effective (percent)	Very effective (percent)	Moderately effective (percent)	Somewhat effective (percent)	Slightly or not effective (percent)	Number of respondents
9.0	39.5	28.7	14.0	8.9	1,966

Status Review Activities

Q45. In what months of the year does your field office perform conservation compliance status reviews?

	Performing review (percent)	Number of respondents
January	1.7	2,015
February	3.0	2,015
March	11.8	2,015
April	24.4	2,015
May	43.7	2,015
June	45.7	2,015
July	27.9	2,015
August	23.5	2,015
September	28.3	2,015
October	22.2	2,015
November	8.2	2,015
December	2.8	2,015

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q46. In your duties as an NRCS employee, how satisfied are you with your responsibilities for monitoring compliance with HEL and wetland conservation provisions?

Very satisfied (percent)	Generally satisfied (percent)	Neither satisfied nor dissatisfied (percent)	Generally dissatisfied (percent)	Very dissatisfied (percent)	Number of respondents
8.4	40.6	27.9	17.3	5.8	1,956

Q47. Please describe the reason for your response below.

Writing comment (percent)	Number of respondents
66.7	2,015

Q48. How do you view HELC provisions in terms of their effect on farm profitability in your county?

Very positive (percent)	Positive (percent)	Neither positive nor negative (percent)	Negative (percent)	Very negative (percent)	Number of respondents
2.8	33.4	57.8	5.5	0.5	1,920

Q49. When you are doing a status review, does your supervisor encourage or discourage identifying tracts/fields in violation of conservation compliance provisions?

Strongly encourages (percent)	Generally encourages (percent)	Slightly encourages (percent)	Neither encourages nor discourages (percent)	Slightly discourages (percent)	Generally discourages (percent)	Strongly discourages (percent)	Number of respondents
22.8	19.6	2.4	52.5	1.4	0.9	0.4	1,948

Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions

Q50. In the normal course of work, does your supervisor encourage or discourage identifying tracts or fields in violation of conservation compliance provisions when you are providing technical assistance?

Strongly encourages (percent)	Generally encourages (percent)	Slightly encourages (percent)	Neither encourages nor discourages (percent)	Slightly discourages (percent)	Generally discourages (percent)	Strongly discourages (percent)	Number of respondents
15.4	21.4	5.4	52.8	2.4	2.2	0.5	1,950

Q51. Compared with other activities in NRCS, what priority does NRCS management place on conservation compliance?

Very high (percent)	Generally high (percent)	Neither high nor low (percent)	Generally low (percent)	Very low (percent)	Number of respondents
12.7	38.3	29.3	14.0	5.7	1,968

Q52. Since January 1, 1994, how has NRCS management changed the priority for implementing conservation compliance?

Significantly increased (percent)	Generally increased (percent)	Neither increased nor decreased (percent)	Generally decreased (percent)	Significantly decreased (percent)	Number of respondents
3.7	16.0	44.3	27.9	8.0	1,907

Q53. In your opinion, how would increasing the number of annual status reviews in your county affect producers' compliance with the conservation provisions?

Very greatly increase compliance (percent)	Greatly increase compliance (percent)	Moderately increase compliance (percent)	Somewhat increase compliance (percent)	Slightly or not increase compliance (percent)	Number of respondents
1.3	5.4	14.7	15.1	63.5	1,892

Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions

Q54. If a participant does not have sufficient crop residue on most of his or her field after planting, how often do you grant an "AM" (minimal or technical effect) variance?

Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Number of respondents
5.8	13.7	3.8	31.7	45.0	1,282

Q55. During a status review, if you discover that a producer is not applying an important practice in his or her conservation system, how often do you grant an "AM" variance?

Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Number of respondents
4.5	8.3	3.1	22.3	61.8	1,523

Q56. When performing status reviews, how often do you check for potential wetland conservation violations?

Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Number of respondents
64.2	21.3	1.3	6.5	6.7	1,870

Q57. Consider the tracts or fields that are granted a variance or exemption based on a status review. How often are these tracts reviewed in the year following the variance or exemption?

Always (percent)	Almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Almost never (percent)	Never (percent)	Number of respondents
67.5	16.3	8.3	1.1	3.2	2.4	1.2	1,550

Compliance Activities

Q58. When a tract is not in compliance with the HELC and WC provisions, how often do you request an FSA-569 (NRCS Report of HELC and WC Compliance)?

Always (percent)	Almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Almost never (percent)	Never (percent)	Number of respondents
62.1	18.5	6.5	1.1	5.1	4.2	2.5	1,670

Q59. If you discover that a producer is not applying an important practice in his or her conservation system during a status review, how often do you do the following?

	Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Number of respondents
Work with the producer to develop a system that will meet the provisions	73.2	18.4	0.8	3.4	4.1	1,794
Identify a variance that will solve the situation for this year	30.8	22.7	5.2	24.3	17.1	1,700
Inform the producer that he or she is out of compliance and provide appeal rights	52.8	11.0	3.2	16.7	16.4	1,645

Q60. When you see a USDA participant's tract that includes HEL cropland farmed without a conservation system to meet the soil-loss reduction requirements, how often do you do the following?

	Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Number of respondents
Notify the participant immediately, either in person or by mail, that the tract may be out of compliance	44.3	23.3	3.4	13.2	15.9	1,640

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

	Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Number of respondents
Wait to see if the tract is on this year's status review list	7.7	8.2	2.1	9.2	72.8	1,517
Request an FSA-569 from the FSA	21.9	12.4	4.1	20.9	40.6	1,528
Notify the person, as time and workload permit	24.0	20.9	6.7	18.2	30.2	1,481

Q61. If a farmer has a farmed wetland (FW) with an existing hydrologic manipulation, would the farmer be able to do the following?

	Yes (percent)	No (percent)	Number of respondents
Expand the manipulation to remove all remaining hydrology and farm the area	0.9	99.1	1,722
Maintain the scope and effect of the maintenance performed prior to December 23, 1985, but not exceed that level of drainage	98.2	1.8	1,733
Convert the area without penalty to the farmer's USDA benefits	2.8	97.2	1,667

Q62. If a farmer is in violation of conservation compliance provisions on highly erodible land, how likely is it that the NRCS field office will automatically grant either a variance or an exemption to the producer in the first year?

Very likely (percent)	Likely (percent)	As likely as not (percent)	Unlikely (percent)	Very unlikely (percent)	Number of respondents
16.0	28.5	21.9	20.4	13.2	1,603

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q63. If a farmer is in violation of conservation compliance provisions on highly erodible land, how likely is it that the FSA field office will automatically grant either a variance or an exemption to the producer in the first year?

Very likely (percent)	Likely (percent)	As likely as not (percent)	Unlikely (percent)	Very unlikely (percent)	Number of respondents
32.1	30.8	17.5	13.2	6.4	1,619

Q64. You have received an anonymous complaint that a USDA program participant has converted a wetland. On review, you find that the conversion is for nonagricultural use. How likely are you to carry out these options?

	Very likely (percent)	Likely (percent)	As likely as not (percent)	Unlikely (percent)	Very unlikely (percent)	Number of respondents
Do nothing, as NRCS does not have jurisdiction	14.0	14.2	9.6	27.3	34.9	1,756
Notify the EPA or the District Corps of Engineers, as this is a potential Clean Water Act violation	26.5	30.2	12.2	14.6	16.5	1,744
Request an FSA-569 from FSA	20.5	17.4	8.3	21.7	32.0	1,679

Q65. Assume that you received the status review list for your county and there are tracts on the list that do not have any wetland determinations. How likely are you to check the tract in the field to assess any potential wetland violations?

Very likely (percent)	Likely (percent)	As likely as not (percent)	Unlikely (percent)	Very unlikely (percent)	Number of respondents
47.8	27.1	8.3	9.2	7.6	1,940

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q66. Assume from the status review list that there are tracts where no records exist. How likely are you to check with the FSA office to see if the tracts have been reconstituted?

Very likely (percent)	Likely (percent)	As likely as not (percent)	Unlikely (percent)	Very unlikely (percent)	Number of respondents
80.4	14.6	2.0	1.7	1.3	1,981

Potential Hindrances

Q67. In your experience, what is the primary hindrance you have in carrying out HELC and WC provisions?

	Primary hindrance (percent)	Number of respondents
Do not want to assume enforcement role	18.3	1,283
Lack of guidance from NRCS	2.3	1,283
Status reviews are received at an inconvenient time	4.5	1,283
Not a priority with my supervisor	0.5	1,283
Lack of staff	39.7	1,283
Lack of appropriate information (for example, maps)	1.9	1,283
Adverse status review decision will be overturned by FSA	13.3	1,283
Adverse status review decision will be overturned by NRCS	4.8	1,283
Adverse status review decision will be overturned by USDA's National Appeals Division	4.5	1,283
Political influence	2.8	1,283
Other (Please specify in Question 68 below.)	7.5	1,283

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q68. What other primary hindrance not listed above affects your ability to carry out HELC and WC provisions?

Writing comment (percent)	Number of respondents
21.7	1,283

Q69. What is the second greatest hindrance?

	Second hindrance (percent)	Number of respondents
Do not want to assume enforcement role	15.8	1,060
Lack of guidance from NRCS	5.4	1,060
Status reviews are received at an inconvenient time	11.4	1,060
Not a priority with my supervisor	2.4	1,060
Lack of staff	19.2	1,060
Lack of appropriate information (for example, maps)	3.7	1,060
Adverse status review decision will be overturned by FSA	13.3	1,060
Adverse status review decision will be overturned by NRCS	9.2	1,060
Adverse status review decision will be overturned by USDA's National Appeals Division	7.5	1,060
Political influence	6.2	1,060
Other (Please specify in Question 70 below.)	5.8	1,060
No other hindrances	0.0	1,060

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q70. What second greatest hindrance not listed above affects your ability to carry out HELC and WC provisions?

Writing comment (percent)	Number of respondents
12.9	1,060

Q71. What is the third greatest hindrance?

	Third hindrance (percent)	Number of respondents
Do not want to assume enforcement role	16.3	828
Lack of guidance from NRCS	6.0	828
Status reviews are received at an inconvenient time	9.3	828
Not a priority with my supervisor	2.7	828
Lack of staff	14.5	828
Lack of appropriate information (for example, maps)	6.5	828
Adverse status review decision will be overturned by FSA	9.1	828
Adverse status review decision will be overturned by NRCS	6.6	828
Adverse status review decision will be overturned by USDA's National Appeals Division	11.8	828
Political influence	10.5	828
Other (Please specify in question 72 below.)	6.6	828
No other hindrances	0.0	828

Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions

Q72. What third greatest hindrance not listed above affects your ability to carry out HELC and WC provisions?

Writing comment (percent)	Number of respondents
13.6	705

HELC and WC Guidance

Q73. If implemented appropriately, how effective are the basic conservation systems in the Field Office Technical Guide (FOTG) in addressing the requirements for soil erosion reduction?

Extremely effective (percent)	Very effective (percent)	Moderately effective (percent)	Somewhat effective (percent)	Slightly or not effective (percent)	Number of respondents
31.0	51.7	13.4	2.9	1.1	1,949

Q74. If implemented appropriately, how effective, are the alternative conservation systems in the FOTG in addressing the requirements for soil erosion reduction?

Extremely effective (percent)	Very effective (percent)	Moderately effective (percent)	Somewhat effective (percent)	Slightly or not effective (percent)	Number of respondents
10.1	40.2	31.9	12.7	5.2	1,879

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q75. In your opinion, to what extent do the following areas of guidance in the current National Food Security Act Manual (NFSAM) need to be improved?

	Needs very great improvement (percent)	Needs great improvement (percent)	Needs moderate improvement (percent)	Needs some improvement (percent)	Needs little or no improvement (percent)	Number of respondents
Conservation compliance	4.2	9.2	21.9	20.3	44.4	1,780
Sodbuster provisions	5.3	10.6	19.4	19.1	45.6	1,741
Swampbuster provisions, overall	7.2	12.7	20.3	18.5	41.1	1,672
Wetland mitigation and minimal effects provisions	11.0	18.0	18.6	17.1	35.4	1,660
Status reviews provisions	4.5	9.1	19.1	21.0	46.2	1,782
Appeals provisions	7.7	12.2	16.1	17.7	46.4	1,678
Other	12.6	4.2	6.8	8.4	68.1	191

Q76. For those areas needing improvement, please explain below.

Writing comment (percent)	Number of respondents
23.1	2,015

Wetlands Mitigation

Q77. From January 1, 1997 through December 31, 2001, did your county have any wetlands cases that were mitigated for agricultural purposes under the Food Security Act of 1985, as amended?

Yes (percent)	No (percent)	Number of respondents
13.8	86.2	2,006

Q78. When a person is granted a mitigation exemption, how often do you do the following?

	Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Number of respondents
Develop a mitigation agreement	83.2	9.3	1.1	3.0	3.4	268
Include time limits for implementation in the mitigation agreement, including dates and sequence of activities	80.8	13.5	1.1	1.9	2.6	266
Conduct follow-up inspections until all practices are successfully established	77.2	14.6	1.9	4.5	1.9	268

Q79. About how many cases of agricultural wetland violations in your county were mitigated through restoration of the wetlands from January 1, 1997 through December 31, 2001?

	Mean	Minimum	Maximum	Median	Number of respondents
1997	1.7	1	17	1	71
1998	1.5	1	15	1	62
1999	1.8	1	40	1	84
2000	1.8	1	35	1	96
2001	1.7	1	25	1	92

Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions

Q80. About how many acres of wetlands in your county were mitigated through restoration of the wetlands from January 1, 1997 through December 31, 2001?

	Mean	Minimum	Maximum	Median	Number of respondents
1997	11.6	1	125	5	72
1998	14.3	1	320	5	63
1999	14.9	1	400	4	85
2000	12.1	1	350	4	99
2001	10.5	1	250	4	87

Q81. About how many cases of wetlands in your county were mitigated through enhancements, that is improvement of another wetland, from January 1, 1997 through December 31, 2001?

	Mean	Minimum	Maximum	Median	Number of respondents
1997	1.4	1	2	1	11
1998	1.1	1	2	1	11
1999	1.5	1	3	1	20
2000	2.5	1	20	2	22
2001	1.5	1	7	1	28

Q82. About how many cases of wetlands in your county were mitigated through enhancements, that is improvement of another wetland, from January 1, 1997 through December 31, 2001?

	Mean	Minimum	Maximum	Median	Number of respondents
1997	3.1	1	6	3	10
1998	6.7	1	20	5	9
1999	7.4	1	35	3	16
2000	6.1	1	30	3	19
2001	8.9	1	40	3	27

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q83. About how many cases of wetlands in your county were mitigated through creation of new wetlands from January 1, 1997 through December 31, 2001?

	Mean	Minimum	Maximum	Median	Number of respondents
1997	2.9	1	17	1	23
1998	3.1	1	20	1	18
1999	8.6	1	140	1	27
2000	3.6	1	45	1	36
2001	3.3	1	45	1	38

Q84. About how many acres of wetlands in your county were mitigated through creation of new wetlands from January 1, 1997 through December 31, 2001?

	Mean	Minimum	Maximum	Median	Number of respondents
1997	12.2	1	100	4	20
1998	15.8	1	200	4	19
1999	28.7	1	400	5	26
2000	21.0	1	400	4	36
2001	15.4	1	200	6	39

Q85. From January 1, 1996 through December 31, 2001, did your county have any wetlands cases that were granted a minimal effect exemption under the Food Security Act of 1985, as amended?

Yes (percent)	No (percent)	Number of respondents
15.2	84.8	1,950

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q86. In your county, about how many cases were granted a minimal effect exemption for agricultural purposes from January 1, 1997 through December 31, 2001?

	Mean	Minimum	Maximum	Median	Number of respondents
1997	2.8	1	22	1	137
1998	3.3	1	25	2	115
1999	3.2	1	58	1	134
2000	3.3	1	53	2	131
2001	3.4	1	57	2	133

Q87. In your county, about how many total acres of wetlands were granted minimal effects exemptions for agricultural purposes from January 1, 1997 through December 31, 2001?

	Mean	Minimum	Maximum	Median	Number of respondents
1997	11.2	1	200	3	135
1998	13.1	1	350	3	109
1999	17.7	1	830	3	125
2000	16.8	1	800	3	123
2001	15.1	1	450	3	121

General Information

Q88. What is your title?

	Having this title (percent)	Number of respondents
Soil Technician	7.2	2,004
Soil Conservationist	7.7	2,004
Natural Resource Conservationist	3.3	2,004
District Conservationist	76.3	2,004
Natural Resource Manager	0.4	2,004
Conservation Agronomist	1.0	2,004
Natural Resource Specialist	0.2	2,004
Other (Please specify below.)	3.8	2,004

Q89. If not listed, what is your title?

Writing comment (percent)	Number of respondents
3.4	2,015

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q90. How many years have you been conducting conservation compliance status reviews?

Mean	Minimum	Maximum	Median	Number of respondents
11.0	0	30	12	2,000

Q91. Since 1996, how often has your office used contractors or third-party vendors regarding the implementation of conservation compliance provisions in each of the following areas?

	Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Number of respondents
Making determinations of highly erodible land or wetlands	0.1	0.0	0.1	1.4	98.4	1,982
Developing conservation plans	0.1	0.1	0.2	1.8	97.9	1,976
Conducting status reviews	0.1	0.0	0.1	0.8	99.1	1,966
Other (please specify in question 92 below)	0.3	1.4	0.3	2.7	95.3	364

Q92. In what other area has your office used contractors or third-party vendors regarding the implementation of conservation compliance provisions?

Note: Fewer than 1 percent of the respondents wrote a narrative.

Q93. Please provide below any suggestions or comments you have to improve the way NRCS supports you in performing status reviews and ensuring compliance with highly erodible land and wetland conservation provision requirements.

Writing comment (percent)	Number of respondents
47.6	2,015

**Appendix V: Results of Survey on the
Implementation and Effectiveness of the
Conservation Provisions**

Q94. Please add any comments or suggestions you have about highly erodible land and wetland conservation requirements.

Writing comment (percent)	Number of respondents
41.0	2,015

Q95. Please add any comments or suggestions you have about this questionnaire.

Writing comment (percent)	Number of respondents
30.1	2,015

Appendix VI: Comments from the U.S. Department of Agriculture's Farm Service Agency

Note: GAO's comments supplementing those in the report's text appear at the end of this appendix.



MAR 4 2003

United States
Department of
Agriculture

Farm and Foreign
Agricultural
Services

Farm Service
Agency

1400 Independence
Ave, SW
Stop-0517
Washington, DC
20250-0517

TO: Lawrence J. Dyckman, Director
Natural Resources and Environment Team, GAO

FROM: John A. Johnson *Heine Sharp for*
Deputy Administrator for Farm Programs

SUBJECT: Response - Draft GAO Report - GAO-03-418, Conservation Compliance

This memorandum is in response to your request for comments regarding the draft GAO report covering the implementation of USDA Conservation Compliance requirements.

The primary FSA-related concern in the report deals with the GAO findings that FSA county committees waived 61 percent of the NRCS noncompliance determinations during the period 1993 through 2001.

It is important to note FSA does not negate or overrule any NRCS determination that a violation occurred. A determination by a county committee to approve a "good faith" exemption to waive a producer's ineligibility is made under the authority granted in the Code of Federal Regulations (7 CFR Part 12) and the Food Security Act of 1985 (the 1985 Act).

Under those provisions, a producer who is determined to have violated the highly erodible land or wetland conservation provisions may continue to receive USDA program benefits providing:

- The producer acted in good faith and without the intention to violate.
- NRCS determines the producer:
 - restores or mitigates the converted wetland in a time period not to exceed one year, or
 - has fully implemented an acceptable conservation system on highly erodible land in a time period not to exceed one year.

Of the total program benefits reinstated by FSA committees, approximately 16 percent (\$6.5 million), were provided to tenants or landlords who were determined to be innocent and uninvolved with the noncompliance activity. In such cases, the violations were attributed solely to the producers' responsible for the adverse action.

Although a "good faith" determination will allow a violating producer to continue receiving program benefits, there are other costs to the producer associated with the violation. In the case of a converted wetland, the producer initially incurred the cost of conversion. The same producer must also incur the cost of wetland restoration without any monetary assistance from USDA.

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Lawrence J. Dyckman, Director
Page 2

FSA procedures do not allow a producer to retain USDA covered program benefits without meeting all conservation compliance requirements or the requirements for a waiver of ineligibility. The restoration of converted wetlands, along with the implementation of NRCS-acceptable conservation systems on highly erodible land, is consistent with the provisions of the 1985 Act.

FSA would note that application of "good faith" procedures facilitated the restoration of converted wetlands along with the implementation of good conservation systems on approximately 3,500 tracts of land which were brought back into conservation compliance. It could be argued that many of these tracts would not have been brought back into compliance if eligibility for benefits had not been reinstated under the "good faith" exemption. Surely, the overall purpose of the conservation compliance provisions of the 1985 Act is not to deny benefits, but rather to achieve conservation compliance.

Denied Benefits

During the time span covered by the report, FSA has permanently denied approximately \$20 million in program benefits to violators of the conservation compliance provisions. Price support benefits were also denied on 2.1 million pounds of peanuts and 3.6 million pounds of tobacco due to violations.

The statistics totaling the dollar amount of denied benefits tend to be significantly understated. Once producers are aware they are in violation of the conservation compliance provisions, it is normal to refrain from applying for USDA program benefits. There are no statistics available which capture the amount of program payments that were not paid to violators because they failed to file an application, anticipating denial.

Documentation

This report outlines the lack of acceptable documentation or reasons, by FSA committees, when many of the "good faith" determinations were granted.

Current procedure in FSA Handbook 6-CP instructs county offices to document the case history and reasons for the committee determination on Form AD-1068. This procedure also indicates:

"...approvals must be supported by conclusive evidence to indicate that the producer intended to comply without intent to violate and the action was not a scheme or device to avoid compliance."

See comment 1.

See comment 2.

**Appendix VI: Comments from the U.S.
Department of Agriculture's Farm Service
Agency**

Lawrence J. Dyckman, Director
Page 3

FSA Action

FSA agrees there is value in placing additional emphasis on the current procedural requirements.

This will be accomplished through the issuance of FSA notices to the field offices. A revision of FSA Handbook 6-CP will also stress the documentation requirements along with the requirements necessary to qualify for a "good faith" determination.

Enforcement will be conducted through County Office Reviews.

The following are GAO's comments on the U.S. Department of
Agriculture's letter dated March 4, 2003.

GAO's Comments

1. We agree that the purpose of the conservation compliance provisions is not to deny farmers benefits. However, the FSA's guidance requires that county office committees grant good faith waivers judiciously and only when supported by conclusive evidence indicating that the farmer did not intend to violate the provisions. In addition, NRCS officials were concerned at the extent to which the FSA waives NRCS's noncompliance determinations. These officials expressed the view that many of these waivers are not justified and that the high number of waivers tends to undermine NRCS's implementation of the conservation provisions, giving its field staff less incentive to issue violations when warranted.
2. Table 2 of the report shows that the FSA denied about \$19.2 million of benefits to farmers during crop years 1993 through 2001; this amount represents the difference between the totals for the "Benefits to be denied before appeals" and the "Benefits reinstated by Farm Service Agency" columns of the table. However, the table also shows that this total was further reduced by about \$6.5 million worth of benefits that were reinstated by others including NRCS, USDA's National Appeals Division, and judicial courts. Thus, substantially less than approximately \$20 million worth of benefits were permanently denied.

Appendix VII: GAO Contacts and Staff Acknowledgments

GAO Contacts

Lawrence J. Dyckman (202) 512-3841
James R. Jones, Jr. (202) 512-9839

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Related GAO Products

Agricultural Conservation: State Advisory Committees' Views on How USDA Programs Could Better Address Environmental Concerns. [GAO-02-295](#). Washington, D.C.: February 22, 2002.

Natural Resources Conservation Service: Additional Actions Needed to Strengthen Program and Financial Accountability. [GAO/RCED-00-83](#). Washington, D.C.: April 7, 2000.

Soil and Wetlands Conservation: Soil Conservation Service Making Good Progress but Cultural Issues Need Attention. [GAO/RCED-94-241](#). Washington, D.C.: September 27, 1994.

Farm Programs: Conservation Compliance Provisions Could Be Made More Effective. [GAO/RCED-90-206](#). Washington, D.C.: September 24, 1990.

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