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BY THE COMPTROLLER GENERAL

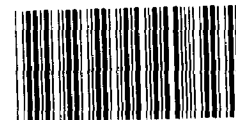
Report To The Congress

OF THE UNITED STATES

Agriculture's Set-Aside Programs Should Be Improved

The Department of Agriculture's wheat and feed grain set-aside programs--taking cropland out of production to reduce expected surpluses--would be more effective if Agriculture adopted a stricter certification and compliance program and eliminated the current system of good faith determinations and monetary penalties. This would also simplify program administration and reduce county office workload.

Normal crop acreages for wheat and feed grain farms need to be reestablished so that they represent acreages usually planted to crops. In reviewing 1978 normal crop acreages initially established for 226 farms and adjusted for 107 farms, GAO found that 57 and 45, respectively, were incorrect, unsupported, or otherwise questionable. In most of these cases, the acreages were overstated, thereby reducing the set-aside programs' effectiveness.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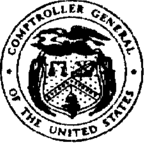

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-197027

To the President of the Senate and the
Speaker of the House of Representatives

AGC00042

This report discusses the Department of Agriculture's administration of the wheat and feed grain set-aside provisions of the 1977 Food and Agriculture Act. It identifies certain areas in which the Department could improve program administration and thereby improve overall program effectiveness. It discusses particularly (1) how Agriculture dealt with producers who did not comply fully with the 1978 set-aside program requirements yet were allowed to receive program benefits and (2) why normal crop acreages for farms participating in the set-aside programs did not always represent acres normally planted to crops.

We are sending copies of this report to the Director, Office of Management and Budget, and to the Secretary of Agriculture.

Elmer B. Staats

Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

AGRICULTURE'S SET-ASIDE PROGRAMS SHOULD BE IMPROVED

D I G E S T

In fiscal year 1978, farmers participating in the Department of Agriculture's wheat and feed grain set-aside programs, which are intended to reduce expected surpluses of particular crops, took about 17 million acres out of crop production. In return, the producers were eligible for commodity loans and purchases as well as deficiency, disaster, and diversion payments. The latter three payments totaled over $1.8 billion. (See pp. 1 to 4.)

GAO reviewed producer compliance with the wheat and feed grain set-aside programs' requirements and determinations of normal crop acreages in 12 counties in Colorado, Kansas, and Minnesota. About 18 percent of the farms that participated in the 1978 set-aside programs were in these States. (See p. 5.)

COMPLIANCE PROVISIONS

Although most participating producers in the review counties had complied with set-aside requirements, Agriculture had allowed some producers who did not meet all set-aside requirements--including taking the required percentages of cropland out of production--to receive farm program benefits. (See pp. 9 and 10.)

GAO recognizes that the 1978 set-aside programs were implemented in a short time and when county offices' staffing was low. GAO believes that these conditions contributed to the set-aside programs being less effective than they could have been. (See p. 7.)

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The Department's Agricultural Stabilization and Conservation Service's county offices and the local, three-member, farmer-elected county committees have basic responsibility for determining compliance. Producers must certify their planted and set-aside acres by specified dates. The county office then

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determines the accuracy of the certifications by measuring acreages on either all or a sample of farms within the county. Producers who are found to have certified their acreages inaccurately can either be denied program participation or, if the county committee determines that the producers acted in good faith, be assessed monetary penalties. (See pp. 4 and 5.)

However, the Service's criteria for good faith determinations are vague, and county committees basically had to use their own judgment in making such determinations. As a result, the committees generally decided that producers who failed to comply fully had acted in good faith, although GAO believes many of the reasons given for the decisions did not justify allowing producers to retain eligibility for program benefits. (See pp. 10 to 12.)

In addition, monetary penalties for noncompliance were not always applied when they should have been, were not applied consistently from State to State and county to county, and were costly to administer. (See pp. 12 to 17.)

A stricter certification and compliance program in place of good faith determinations and monetary penalties is needed to ensure better compliance, simplify program administration, and reduce county office workload.

Other aspects of the compliance process that needed strengthening included

--spot checking farms for compliance (see pp. 18 to 21);

--determining whether producers with two or more farms had complied with set-aside requirements on all farms before being allowed to receive program benefits (see pp. 21 to 23); and

--recording, documenting the adequacy of, and following up to see that proper disposition was made of the set-aside covers--small grain crops or other soil-conserving plants

that are allowed to be grown on set-aside acreages but cannot be harvested (see pp. 23 to 26).

The Service should use aerial observation to assist in determining compliance only where feasible and cost effective. Also, GAO questions a Service proposal to determine acreages on all farms. Most producers in the review counties had accurately certified their planted acreages, and costs would greatly increase if acreages were determined on all, rather than a sample of, participating farms. (See pp. 27 to 30.)

Recommendations

To improve the programs' overall effectiveness, the Secretary of Agriculture should direct the Service's Administrator to among other things:

--Establish a strict compliance program under which producers who incorrectly certify their acreages would be denied program participation unless they are granted relief through a State and/or national appeal process, and specifically define the circumstances in which relief would be granted. This would take the place of good faith determinations and monetary penalties.

--Revise procedures to require that the adequacy of set-aside covers be documented both at the time of certification and at the time of farm inspection and that followup visits to correct any identified problems be made and documented.

--Revise procedures to increase the number of visits made to farms having small grains as cover on set-aside acres to ensure that the cover crop is clipped prior to seed formation.

--Have county offices use aerial observation to assist in determining compliance where feasible and cost effective, but limit wheat and feed grain determinations, for the most part, to a random sample of farms plus other required checks. (See p. 32.)

Agriculture does not agree with GAO's recommendation to eliminate the current system of good faith determinations and monetary penalties and establish a stricter compliance program. It believes the current system has value and is fair and necessary and that establishing a State and/or national appeal process to provide relief for noncomplying producers would only transfer the workload and decision-making process to a higher level. It also said that the Service was still determining its long-range policy on the methods to be used in determining acreages. (See app. III and pp. 33 and 35.)

GAO believes that the current system is not fair to either those producers who complied fully or those who did not. By implementing a stricter certification program, including specifically defining the circumstances under which producers who do not comply fully with set-aside requirements can retain program benefits, the Service should greatly reduce the inequitable treatment of producers and the number of cases requiring State office and/or headquarters review. (See pp. 33 to 36.)

NORMAL CROP ACREAGE

Land to be set aside is supposed to be part of the farm's normal crop acreage--the acreage normally planted to crops for harvest. Normal crop acreages are used as an aid in controlling total crop acreages when set-aside programs are in effect. They may also be used to implement future farm legislation. With certain exceptions, the base period for establishing normal crop acreages was to be the 1977 planted acreage.

The Service recognized that many errors had been made in establishing normal crop acreages and had instructed its county offices to reexamine and/or reestablish them. However, GAO's review of 226 normal crop acreages in the 12 review counties showed 57 cases where the acreages did not represent the farms' normal plantings, were established contrary to Service instructions, or were otherwise questionable based on the information or lack of information in the files.

In reviewing 107 cases where county committees had adjusted the acreages after considering producers' appeals, GAO found 45 cases where the adjustments were incorrect or unsupported.

In most cases, the incorrect, questionable, or unsupported normal crop acreages were overstated. When such acreage is overstated, producers in effect are able to claim for set aside a number of acres that normally would not have been planted. (See pp. 38 to 48 and 51 and 52.)

Other evidence, including Agriculture's Office of Inspector General audits, also indicated that many normal crop acreages were established incorrectly. (See pp. 48 to 51.)

GAO believes the main factor contributing to the problems with normal crop acreages was the lack of planting histories on most farms. Without these, county offices had very little information available to establish the correct normal crop acreages if they believed the 1977 plantings were abnormal or if the producers appealed their decisions.

Recommendations

To ensure that normal crop acreages are based on accurate and normal planting histories and that Agriculture will be in a position to carry out existing and future farm legislation more effectively, the Secretary of Agriculture should require the Service's Administrator to:

--Reestablish normal crop acreages for all wheat and feed grain farms based on recent planting histories, such as those for 1977, 1978, and 1979, and ensure that all changes to established normal crop acreages are properly supported and documented.

--Obtain annual planting data on all farms using producer certifications. (See p. 53.)

Agriculture does not agree with the first recommendation. It said that using recent planting histories would be inequitable to

those who set aside land in 1978 and 1979. It proposed, instead, to make the Service's State-level employees responsible for seeing that county committees properly establish farms' normal crop acreages for 1980 and to have each county report normal crop acreage data to headquarters.

Because of the problems the Service experienced in the past, however, GAO does not believe that the proposed actions will be successful in correcting the erroneous normal crop acreages. (See pp. 54 and 55.)

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ABBREVIATIONS

ASCS	Agricultural Stabilization and Conservation Service
GAO	General Accounting Office
NCA	normal crop acreage
USDA	U.S. Department of Agriculture

CHAPTER 1

INTRODUCTION

The Food and Agriculture Act of 1977 (Public Law 95-113, 91 Stat. 913 *et seq.*) authorizes cropland set-aside programs for the 1978-81 crops of wheat, feed grains, upland cotton, and rice. These programs are the latest in a long line of production adjustment programs intended to take cropland out of production in times of surpluses. For each of the commodities, the Secretary of Agriculture is to provide for a set-aside program if the Secretary determines that the total supply of the commodity will, in the absence of such a set-aside, likely be excessive. In making the determination, the Secretary is to take into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency.

Unlike most previous production adjustment legislation, the 1977 act does not authorize payments to producers for the land they set aside. However, when a set-aside program is in effect for a particular commodity, producers must participate in it if they want to be eligible for price-support loans and purchases and for deficiency 1/ and disaster payments on that commodity. The 1977 act also provides that, whether or not a set-aside program for the particular commodity is in effect, the Secretary may make land diversion payments to producers if the Secretary determines that such payments are necessary to assist in adjusting the total national acreage of the commodity to desirable goals.

For 1978, set-aside programs were in effect for corn, grain sorghum, barley, and wheat; and voluntary diversion programs were in effect for corn, grain sorghum, barley, and upland cotton. According to the Department of Agriculture (USDA), total set-aside/diversion acreage for the 1978 programs was 17 million acres. For 1979, set-aside programs were in effect for wheat, corn, grain sorghum, and barley; and diversion programs were in effect for corn and grain sorghum. Because of the current increased demand for wheat and feed grains, the Secretary announced that there would be no set-aside programs for these crops for the 1980 crop year.

1/Deficiency payments are made to producers when the national average market price of a crop is below the target price established by law.

THE FOOD AND AGRICULTURE ACT OF 1977

The purposes of the Food and Agriculture Act of 1977, which authorizes the 1978-81 set-aside programs, are to

--help assure producers a fair financial return from farming operations,

--protect producers from economic and natural disasters,

--assure consumers of an abundance of food and fiber at a reasonable cost, and

--encourage price stability and reliable supplies through a producer-owned and -controlled grain reserve.

The set-aside programs are based on national program acreages which represent the estimated acreage needed to meet domestic and export needs plus any adjustments to stocks.

In addition to set-aside programs, the 1977 act authorizes various wheat and feed grain loan, purchase, and payment (deficiency, disaster, and diversion) programs. In fiscal year 1978, deficiency, diversion, and disaster payments to wheat and feed grain producers totaled over $1.8 billion. In fiscal year 1979, such payments totaled over $1.5 billion.

HISTORY OF PRODUCTION ADJUSTMENT PROGRAMS

For about 18 years (1956-73), varying amounts of cropland were taken out of production. Terms used for the acreages taken from production included soil bank, acreage reserve, conservation reserve, and cropland adjustment, conversion, diversion, and set-aside.

The most recent use of set-aside programs prior to 1978 occurred during the 1971-73 crop years. The Agricultural Act of 1970 (84 Stat. 1358), as amended by the Agriculture and Consumer Protection Act of 1973 (87 Stat. 221), authorized the Secretary of Agriculture to conduct set-aside programs on the 1971-77 crops of wheat, feed grains, and upland cotton if he determined that the supply of such commodities would otherwise be excessive. For 1971-73, set-aside was based on acreage allotments for wheat and base acreages for feed grains. Under those programs, producers were eligible for feed grain payments if they set aside the required percentage of their base feed grain acreage or for wheat payments if they set aside the required percentage of their domestic allotments. During the period 1974-77, no set-aside programs were in effect.

CURRENT SET-ASIDE PROGRAM OPERATIONS

When a set-aside program is in effect, the total number of acres a participating producer can plant is restricted to the farm's normal crop acreage (NCA) minus the set-aside acres. 1/ NCA is the total number of acres normally planted for harvest to the following crops: barley, corn, dry edible beans, flax, oats, rice, rye, grain sorghum, soybeans, sugar beets, sugarcane, sunflowers, upland cotton, and wheat. Other crops may be included by a particular State. With certain exceptions, a farm's NCA was established by using 1977 planted acres of normally planted crops as a base.

The Secretary established the following required set-aside percentages for each of four crops, known as program crops, for 1978 and 1979.

Crop	Required set-aside percentage 1978	Required set-aside percentage 1979
Wheat	20	20
Corn	10	10
Grain sorghum	10	10
Barley	10	20

A producer who sets aside the required percentage of planted acres does not receive payments for land set aside, but is qualified to receive program benefits, such as disaster and deficiency payments and price support loans, under other farm progams if program requirements are met. In addition, producers could receive diversion payments if they voluntarily took the following percentages of planted acres out of production.

Crop	Voluntary diversion percentage 1978	Voluntary diversion percentage 1979
Corn	10	10
Grain sorghum	10	10
Barley	10	0
Upland cotton	10	0

1/Throughout this report, the term set-aside acres includes voluntary diverted acres where applicable.

Producers must plant an approved vegetative cover on set-aside acres or use some other conservation measures which will protect the set-aside acreage from wind and water erosion. Generally, cover crops may be annual, biennial, or perennial grasses and legumes or small grains, such as wheat and oats, if clipped or undercut to assure that a grain does not mature.

In addition to complying with set-aside acreage and cover requirements, producers must comply with offsetting compliance and cross-compliance instructions. Offsetting compliance means that a producer who owns or operates two or more farms is eligible for program benefits on a farm participating in a set-aside program provided the NCA is not exceeded on a nonparticipating farm on which the producer planted a program crop. Cross-compliance means that, if set-aside programs are in effect for two or more crops and a producer plants these crops, the required percentage of planted acres for these crops must be set aside before the producer is eligible for program benefits.

Certification and verification

To become eligible for a set-aside program, the producer files an intention to participate at the county Agricultural Stabilization and Conservation Service (ASCS) office, estimating how many acres will be planted and how many acres will be set aside. Planted plus set-aside acres cannot exceed the farm's NCA. The producer then plants the crops, setting aside the required acreage and protecting it with a vegetative cover or other conservation practice. Before a specified date, the producer returns to the county office, certifies actual planted and set-aside acres, and specifies the cover on the set-aside acres.

After certification, the county office selects farms on which to verify or spot check the accuracy of the certified data. In 1978, this verification process in most cases involved county office representatives' visiting the selected farms to measure or observe the acreages reported. If the measurements differed by more than a predetermined amount, the producer could either be denied program participation or, if the county committee (a description of county committee duties follows) determined that the producer acted in good faith, the producer could be charged a monetary penalty. (See app. I for the maximum 1978 penalty rates and types of defaults.)

PROGRAM ADMINISTRATION

ASCS administers the set-aside and other farm programs through its 50 State and about 3,050 county offices. Each of these offices is directed by a State or county committee.

The county committees administer local operations and are composed of (1) three farmers elected by the farmers in the county and (2) the county agricultural extension agent. They make local program decisions and policies and appoint a county executive director who directs the office staff in handling the day-to-day detailed administrative work. The State committees supervise the county committees and are comprised of (1) from three to five members appointed by the Secretary of Agriculture and (2) the State's director of agricultural extension services. In fiscal year 1978, ASCS spent about $296 million in administering farm programs, including the set-aside programs.

SCOPE OF REVIEW

We reviewed the legislation, regulations, and procedures relating to the wheat and feed grain set-aside programs. We interviewed USDA officials from ASCS and the Department's Office of Inspector General as well as county office personnel, county and State committee members, and selected producers.

We performed detailed fieldwork at the following State and county ASCS offices.

Colorado	Kansas	Minnesota
Adams	Cherokee	Clay
Kit Carson	Dickinson	Redwood
Prowers	Marion	Renville
Weld	Rawlins	Wilkin

In 1978, these States contained about 11 percent of the Nation's 2,348,700 farms and about 18 percent of the farms that participated in the set-aside programs.

We also discussed the set-aside programs' usefulness and effectiveness with Soil Conservation Service officials, educators knowledgeable of the various farm programs, and farm organization representatives.

We reviewed the 1978 wheat and feed grain set-aside programs to identify those areas in which USDA could improve program administration and thereby improve overall program effectiveness. We specifically examined how USDA dealt with

producers who did not comply fully with set-aside program requirements but were allowed to receive program benefits and how it determined the normal crop acreages for farms participating in the set-aside programs.

We also obtained some information on the 1979 set-aside programs but did not review them in detail.

CHAPTER 2

MAJOR CHANGES NEEDED IN COMPLIANCE PROCEDURES

The wheat and feed grain set-aside provisions of the Food and Agriculture Act of 1977 could be more effective and carried out more efficiently if ASCS adopted a stricter certification and compliance program in place of good faith determinations and monetary penalties. This would help ensure better compliance, simplify program administration, and reduce county office workload and some of the problems county offices have in administering the programs.

Our comparisons of producer certifications and ASCS measurements on 2,005 farms in the 12 review counties showed that 86 percent of the acreage certifications were within ASCS tolerances. However, in 11 of the 12 counties visited, several producers who had participated in the 1978 set-aside programs and received benefits under other farm programs had not met all set-aside requirements, including removing the required amount of land from production. As a result, the 1978 set-aside programs were not as effective as they were intended to be.

ASCS county offices must determine whether producers participating in the set-aside programs are complying with all program provisions. These determinations are made through a system of producer certifications and spot checks to identify those producers who have not certified correctly. Good faith determinations are made to decide if producers found to be out of compliance should be (1) expelled from the programs and denied farm program benefits (that is, deficiency and disaster payments and price-support loans) or (2) allowed to remain in the programs. Those producers who have not met all set-aside requirements but who, in the county committee's opinion, acted in good faith and should be allowed to remain in the programs are to be assessed monetary penalties.

The 1978 set-aside programs were implemented in an extremely short time (the act was signed on September 29, 1977, and USDA announced the set-aside programs in November 1977) and when county offices' staffing was low. As a result, county offices had to administer a complicated new program with new and inexperienced staff (county office staffing went from 8,202 to 10,451 in 1 year). This condition, in our opinion, contributed to the set-aside programs being less effective than they should have been in removing cropland from production.

County office problems in administering compliance procedures involved:

--Good faith determinations. ASCS criteria for good faith determinations are vague, and county committees had to rely on their own judgment in deciding whether producers who failed to comply fully had acted in good faith. As a result, good faith was justified on a variety of reasons including many which, in our opinion, did not justify allowing a producer to retain eligibility for program benefits.

--Application of monetary penalties. Penalties for noncompliance with set-aside requirements were not applied consistently from State to State and county to county. Further, county offices did not always compute the correct penalty, penalize all producers who were out of compliance, or deduct the penalties from a producer's payments. Often county committees recommended to the State committees that penalties be reduced below the amounts prescribed by the regulations.

--Spot checks. None of the 12 county offices had followed all prescribed sampling procedures in selecting farms for spot checks, and some had not made all the spot checks the sampling procedures required. As a result, these county offices did not obtain statistically valid information on the magnitude of incorrect acreage certifications. In June 1979, after we notified ASCS headquarters of counties not following sampling procedures in 1978, a notice was sent to all county offices reemphasizing the importance of following procedures correctly for the 1979 spot checks.

--Offsetting compliance. Some county offices were not determining whether producers with two or more farms had complied with set-aside requirements on all farms before being allowed to receive program benefits.

--Use of land set aside. Spot checks of set-aside acres were not adequately documented; therefore, management had no way to assure itself that these acres were actually taken out of production and maintained under acceptable conservation practices as required by the act. Also, some producers had harvested set-aside cover.

These and other matters, including an ASCS decision to use aerial observation to assist in determining compliance with set-aside requirements, are discussed in the following sections.

REQUIRED PERCENTAGES OF LAND NOT ALWAYS REMOVED FROM PRODUCTION

According to the Food and Agriculture Act of 1977, producers who do not comply fully with set-aside program provisions can retain their eligibility for other farm program benefits to the extent the Secretary of Agriculture determines to be equitable. ASCS instructions allow producers who have failed to take required percentages of cropland out of production to retain their eligibility to receive farm program benefits, provided it is determined they did not act in bad faith. As shown in the following table, producers on 57 farms spot checked in 10 of the 12 review counties had taken less than the required percentages of land (outside of accepted tolerances 1/) out of production. In each of these cases, the producer was determined to be eligible to receive farm program benefits.

County office	Number of farms where: Set-aside acres were measured	Number of farms where: Required percent of wheat and feed grain acres were not set aside
Colorado:		
Adams	189	4
Kit Carso	106	0
Prowers	220	5
Weld	101	4
Kansas:		
Cherokee	55	1
Dickinson	68	7
Marion	55	3
Rawlins	60	0
Minnesota:		
Clay	231	16
Redwood	90	9
Renville	59	3
Wilkin	119	5
Total	1,353	57

1/A variance of the larger of 0.1 acre or 5 percent of the required set-aside not to exceed 25 acres and the larger of 1 acre or 5 percent of the certified planted acreage not to exceed 25 acres is allowed between the number of set-aside and planted acres certified by the producer and the number of acres determined by ASCS.

In addition to the 57 cases above, producers on 24 other farms had planted in excess of the farms' NCAs during 1978, thus not reducing overall planted acres.

The following examples demonstrate the effect on the set-aside programs when all required land is not taken out of production.

--Producer A was required to take 114.3 acres of cropland out of production. His measured set-aside acreage was 100 acres and he was penalized $1,416 for setting aside 14.3 acres less than required. This producer was allowed to receive program benefits even though he set aside only 87 percent of his requirement.

--Producer B was required to take 27.6 acres of cropland out of production. His measured set-aside was 20.6 acres. The county committee recommended he be penalized $709 for not setting aside an additional 7 acres. This producer was allowed to receive program benefits although he set aside only 75 percent of his requirement.

GOOD FAITH DETERMINATIONS
SHOULD BE ELIMINATED

Determining whether a producer who failed to comply fully with set-aside requirements acted in good faith is highly subjective, and ASCS' criteria on what constitutes good faith are vague. Program administration could be simplified and program effectiveness improved if the current system of determining good faith was eliminated and all producers were required to comply strictly with set-aside requirements or be expelled from the program with readmission only if (1) relief is granted under a State and/or national appeal process and (2) the acreages are brought into compliance.

Of the 271 noncompliance cases in the 12 review counties in 1978 on which final action had been taken, the county committees decided in 214 cases, or about 79 percent, that the noncomplying producers had acted in good faith. A breakdown of the 271 cases, by State and county, is shown below.

County office	Number of farms: Found not in full compliance	Number of farms: Whose producers were determined to have acted in good faith	Percent
Colorado:			
Adams	27	14	52
Kit Carson	1	0	0
Prowers	14	7	50
Weld	31	21	68
Kansas:			
Cherokee	7	0	0
Dickinson	30	29	97
Marion	51	42	82
Rawlins	4	3	75
Minnesota:			
Clay	53	50	94
Redwood	15	14	93
Renville	10	9	90
Wilkin	28	25	89
Total	271	214	79

In making their determinations, the county committees' only criteria were the following definitions in ASCS instructions.

> "Good faith - the act was done under a reasonable mistake of fact, by instructions of an authorized representative of the Secretary or by a person who could not benefit from the act."

> "Lack of good faith - the act in question was done in such a manner that it would not be logical to assume a reasonable mistake in fact was made by the operator. The degree of noncompliance or the action taken shows an unconcerned manner relative to assumption of normal responsibility to assure that program requirements are met."

Because of this general criteria, county committees had to rely on their own judgment in determining good faith. The following are some of the more typical reasons the county committees used to justify their determinations of good faith.

--Producer believed his certification of planted acres to be accurate.

--Producer believed he estimated acreages fairly accurately, possibly on the short side; he wasn't sure what happened on the understated acres.

--County committee determined that producer was confused about certifying his acreage, and he made a reasonable effort to control weeds on his set-aside acres after acreage was inspected.

--Producer was not aware that the acreages did not include all fields whose boundaries had been changed.

--County committee assumed good faith because the producer had the required amount of set-aside acres.

We are not suggesting that the producers who used the above reasons deliberately certified incorrect amounts of planted or set-aside acreages. We recognize that some inadvertent errors can be expected in programs of this type, but we question whether reasons such as those above justify allowing producers to participate in other farm programs when they have not complied fully with all set-aside requirements.

In a national notice to State and county offices on February 15, 1979, ASCS stated that, because of the difficulties surrounding certification in 1978, findings of good faith had been made and sustained in many cases that would not be acceptable for 1979. In the same notice, ASCS stated that the number of defaults in 1979 should be reduced to a minimum, the reasons for which an incorrect certification may be justified as good faith must be limited, and only the most highly meritorious cases may be favorably considered by State committees. However, this notice did not define the types of reasons that could be used to justify good faith determinations or what constitutes a "highly meritorious" case.

MONETARY PENALTIES NEED TO BE ELIMINATED

Monetary penalties, which are to be assessed against noncomplying producers who are determined to have acted in good faith, are difficult and costly to administer and have not always been administered properly or consistently. ASCS will continue to experience difficulty in obtaining fair and equal treatment of producers who failed to comply fully with set-aside requirements as long as its State and county committees have the authority to impose and/or reduce the size of monetary penalties. Further we believe that a more severe penalty than a monetary one is necessary to ensure full compliance. If monetary penalties were eliminated and producers who incorrectly certify their acreages would, instead,

be denied program participation unless granted relief through a State and/or national appeal process, the program would be simplified and county and State workloads would be reduced.

Depending on the degree to which producers failed to comply fully with 1978 set-aside requirements, either county or State committees could impose monetary penalties at rates prescribed in ASCS instructions. Any decision to reduce penalties for 1978, however, had to be made by State committees or ASCS headquarters, although county committees could recommend that penalties be reduced.

Inconsistent application of some penalties

Colorado producers generally were penalized at the maximum rates allowed by ASCS, while Kansas and Minnesota producers generally were penalized at reduced rates for the same violations. In addition, producers in Kansas and Minnesota counties were not always penalized at the same rates for the same violations.

As shown in the following table, the Kansas and Minnesota State committees had reduced penalties in the majority of the cases they reviewed during the period January through March 1979. For the same period, the Colorado State committee rarely reduced penalties.

State	Number of cases reviewed	Cases in which penalties were reduced		Amount of reductions
		Number	Percent	
Colorado	52	5	9.6	$ 2,244
Kansas	307	285	92.8	46,315
Minnesota	157	123	78.3	17,456
Total	516	413		$66,015

Representatives of the three State offices gave the following reasons for the State committees' actions.

--The Colorado State committee normally penalized producers at the maximum rates authorized by ASCS regulations because it believed that reducing penalties would be unfair to those who accurately reported their acreages.

--The Kansas State committee followed a guideline which allowed a producer who over- or understated individual crop acreages but had sufficient set-aside acres and had planted within the farm's NCA to be

penalized at half the maximum rate, unless the appropriate county committee requested that a lesser penalty not be considered.

--The Minnesota State committee had not established a policy on which penalties would be reduced or the percent of reduction. However, if a county committee recommended a reduced penalty, the State committee normally imposed a reduced penalty but not necessarily to the degree suggested by the county committee.

The three State committees basically relied on county committee recommendations in deciding whether to penalize producers at standard or reduced rates. However, Kansas and Minnesota county committees varied substantially in deciding which cases warranted reduced penalties. For example, the percentages of cases in which two of the Kansas counties had recommended reduced penalties are shown below.

	Number of defaults		
County	Identified	In which reduced penalty was recommended	Percent
A	113	5	4
B	47	28	60

County committee representatives from county A said that they generally did not recommend reduced penalties because they believed that such action would have been unfair to producers who accurately reported their acreages. County committee representatives from county B said that they normally recommended reduced penalties because they believed that producers had not been sufficiently informed of the severity of penalties at the time acres were certified.

Our analysis of cases reviewed by the Minnesota State committee during the period September 1978 through February 1979 also showed wide variances in the percentages in which county committees had recommended reduced penalties, as shown below.

	Number of defaults		
County	Sent to State committee	In which reduced penalty was recommended	Percent
A	18	0	0
B	9	0	0
C	21	19	90
D	44	42	95

For the 1979 program, county committees had the authority to reduce some penalties, subject to the approval of a State committee representative.

Noncomplying producers not always penalized properly or in the correct amount

In comparing producer certifications with the results of ASCS spot checks, we noted a total of 37 cases in 7 of the 12 counties where producers who had incorrectly certified their planted and/or set-aside acres had not been penalized. As shown by the following table, these missed penalties totaled almost $21,500.

County office	Number of farms: Spot checked	Number of farms: Penalized by ASCS (note a)	Additional farms which should have been penalized	Amount of missed penalties
Colorado:				
Adams	196	27	7	$10,869
Kit Carson	107	1	0	0
Prowers	220	14	0	0
Weld	110	31	3	4,966
Kansas:				
Cherokee	90	7	17	4,155
Dickinson	362	26	0	0
Marion	289	51	0	0
Rawlins	130	4	1	221
Minnesota:				
Clay	231	53	7	927
Redwood	90	15	1	127
Renville	60	10	0	0
Wilkin	120	28	1	218
Total	2,005	b,c,d/267	b/37	$21,483

a/Includes farms which were not allowed to participate in the set-aside programs.

b/One farm is included in both totals because ASCS had penalized the farm for one default but failed to identify a second default.

c/Does not include 27 farms on which final action was pending at the time of our review.

d/Does not include four farms on which penalty was reduced to 0 by ASCS.

Most of the 37 missed penalties involved farms on which the producers had either over- or understated planted acres of a program crop.

Type of default	Number of farms
Program crop acreage understated	9
Program crop acreage overstated	15
Excess NCA	3
Deficient number of set-aside acres	4
Program crop acreage both understated and overstated	5
Both program crop acreage overstated and excess NCA	1
Total	37

County office supervisory personnel agreed that they had not properly penalized producers in 33 of the 37 cases. For the 33 cases, the county office personnel said that they would either (1) impose the missed penalties or (2) forward the cases to the State committee for disposition. We referred the remaining four cases to the appropriate State committee for disposition.

When county offices had identified noncomplying producers, they generally calculated and deducted the correct penalty amounts from program payments. However, our review of 102 cases showed that, in 8 cases in 6 of the counties, errors had been made in either calculating or assessing penalties. The errors ranged from $5 to $280 and totaled about $460. County office personnel either took or promised corrective action in all these cases.

Processing penalties can be costly

In addition to the administrative problems with good faith determinations and monetary penalties, default cases involving penalties can be costly. Not only are costs incurred at the county office level, but when the cases are forwarded to the State ASCS office, additional costs are incurred.

At the county level, processing a default case can involve

--county executive director review (may include meeting with the producer) and county office preparation of documents for county committee review;

--county committee review, which may include a good faith determination;

--notification to producer of the action taken; and

--in cases involving monetary penalties, application of the penalty against future payments to the producer.

If the case is forwarded to the State committee, additional processing steps can include

--county office forwarding required documents to the State office,

--State office preparing the case for State committee review,

--State committee reviewing the case,

--State office notifying county office of State committee action,

--county office notifying producer of action taken, and

--handling of possible appeal by the producer.

None of the State or county offices included in our review had detailed records showing specific costs involved in processing default cases. However, county office representatives estimated that their costs in processing a default case involving penalties ranged from an average of $15 in two counties to about $135 in another county. Representatives in the three State offices estimated that their costs in processing a penalty case ranged from $13 to $40 a case.

Considering the number of cases acted on by some county and State committees, it is evident that substantial costs have been incurred. For example:

--As of June 13, 1979, the Kansas State committee had received about 1,480 default cases. The State office estimated that processing these cases will cost about $19,350. The State office anticipated receiving additional default cases.

--We estimate that one Kansas county office had spent about $2,900 to process over 100 default cases.

SAMPLING AND INSPECTION PROCEDURES WERE NOT ALWAYS FOLLOWED

The sampling and inspection procedures that ASCS prescribed for use in making compliance checks to verify producers' certifications would, according to an ASCS headquarters official, identify 90 percent of the producers whose certifications of planted or set-aside acreages were outside acceptable tolerances. None of the 12 county offices we reviewed, however, had followed all prescribed sampling procedures. Therefore, there was no assurance that the sampling had achieved the desired results or that results obtained were statistically reliable.

To verify producer certifications, the county offices can measure acreages on either all or a sampling of farms. If the sampling approach is chosen, the farms to be measured can be selected on either a farm or commodity basis. The procedures prescribed for making selections on a farm basis are shown in appendix II. The procedures for making selections on a commodity basis are similar.

Of the 2,730 county offices that reported making compliance checks for 1978, 256 had measured all farms. The other 2,474, or 91 percent, including the 12 offices we reviewed, had used the sampling approach. Each of the 12 review offices, however, had deviated from the prescribed procedures in one or more ways. These included not always

--listing farms in the proper order on the farm certification register,

--using correct clearance or starting numbers,

--establishing correct sampling intervals or following correct sampling intervals when they were established,

--increasing sample size when required by the procedures,

--completing verification of acreage certifications of all farms shown on the farm certification register, or

--identifying on the farm certification register those farms on which a discrepancy had been found. (Depending on the number and sequence of discrepancies identified on the register, county office personnel are to increase the sample size.)

The following examples describe how county offices did not follow required sampling procedures.

--One Kansas office did not use the correct clearance number, sampling interval, or starting number. The county's certification register contained a total of about 220 farms with corn acreages. For a universe of this size, a clearance number and sampling interval of 15 is prescribed. The county office, however, had used a clearance number of 18 and a sampling interval of 24, which are those prescribed for a universe of 1,001 or more. The county office had also used a starting number of 20 instead of one between 1 and 15.

--Another Kansas office did not include in its sample universe all farms listed on its farm certification register. Although the register contained about 1,890 wheat farms and 1,540 grain sorghum farms, random samples were taken only from about the first 515 wheat farms and 595 grain sorghum farms. If the office had sampled the complete universes, it would have had to inspect at least 57 more wheat farms and 39 more grain sorghum farms. Depending on where discrepancies were found in these samples, more farms may have had to be inspected.

--One Minnesota office did not inspect the prescribed number of consecutively listed farms before proceeding to its sample and did not spot check all farms included in its sample. On the basis of the number of discrepancies found during its inspection of consecutively listed farms, the office should have inspected at least 14 more consecutively listed farms before drawing its random sample. The office also did not inspect four farms included in its random sample. In addition, this office did not list farms in the proper order on the farm certification register, use the correct starting number before starting the random sample, consistently use the correct sampling interval, or identify on the certification register those farms which were required to be spot checked. (Farms required to be spot checked are to be omitted in the random selection process.)

County office representatives, for the most part, said that sampling procedures had not been followed because they had misinterpreted ASCS instructions or were confused about various aspects of the instructions. Some of the representatives also said that checking certifications by aerial observation--which seven of the offices had used--made it difficult to follow sampling procedures. For example, personnel in the Minnesota county office cited above said that the spot checks had to be completed in the few days the aircraft and pilot were available. They added that it was therefore not

feasible to perform an aerial spot check, wait several days for film processing and reading, and then find out it had cleared the required number of farms before continuing with the checks.

Because county offices either had already started or were going to start sampling farms for 1979 compliance determinations, we met with ASCS' Deputy Administrator, State and County Operations, and other ASCS officials on May 29, 1979, to inform them that the county offices included in our review had not followed required sampling procedures for 1978. On June 4, 1979, the Deputy Administrator sent a notice to all State offices, except Hawaii, reaffirming the importance of county offices' following prescribed sampling procedures and the need for the State offices to ensure that the county offices have followed them.

Spot checks not always timely

ASCS procedures specify that acreage inspections should be made any time after the acreage report has been filed and before evidence of the crop or land use is destroyed. Final inspection of set-aside acreage may be delayed until final set-aside acreage is reported. In 8 of the 12 review counties, some spot checks had been made at times when it was questionable whether the spot check could accurately determine either land use or the boundaries of the acres to be measured. The following examples show the importance of timeliness in inspection, especially in counties where most cropland is used annually in crop production.

--The county executive director for one county stated that spot checks of wheat, feed grain, and set-aside acreages need to be completed by about July 5, August 15, and September 15, respectively, because farmers in that county start cultivating the land soon after harvest. However, some spot checks had been made as late as December 1978, including spot checks for wheat on at least 52 farms after September 15. According to the executive director, the late wheat spot checks were a particular problem in 1978 because much of the land had been tilled and seeded to wheat for the 1979 crop. As a result, it was difficult even to determine what grain had been planted for 1978 or where the exact boundaries had been.

--The executive director in another county said that the ideal planting time for wheat was September 15 and many farmers plant wheat on the prior year's set-aside acreages. For 4 of the 15 cases we analyzed, county employees noted that the set-aside acres had been prepared for planting at the time of spot check. Two of

the farms were spot checked on August 22, 1978; the other two were spot checked on September 8 and 26, respectively.

County executive directors attributed the inappropriately timed spot checks to several factors. Among the more important factors they cited were (1) a shortage of personnel to make the spot checks and (2) the large numbers of disaster applications for which the county office had to determine actual planted acres.

IMPROVEMENTS NEEDED IN MAKING OFFSETTING COMPLIANCE CHECKS

County offices had not always made the offsetting compliance checks needed to determine whether producers with two or more farms complied with set-aside program requirements before allowing them to receive program benefits. In addition, the counties did not have a standardized form to use when requesting compliance information from other counties. Because counties had not always determined total producer compliance or had misinterpreted or not obtained enough data from other counties, some ineligible producers had received farm program benefits.

Offsetting compliance checks were not always made

To be eligible for farm program loans, purchases, and payments, producers participating in a set-aside program cannot plant in excess of the NCA of a farm not participating in the set-aside program that grows either wheat, corn, grain sorghum, or barley. This is known as offsetting compliance.

The 12 county offices we reviewed had made most offsetting compliance checks. However, we noted one or more cases in nine of the counties where such checks had not been made or were not as thorough as they should have been or where producers had not provided enough information for the county offices to make the necessary checks. In five of these counties, our review of the county offices' records showed that one or more producers had received payments to which they were not entitled.

In the four Kansas counties, for example, where we reviewed 155 cases in which producers owned or operated two or more farms, we noted 12 cases where offsetting compliance checks were either not made or not made properly. In nine of the cases, involving payments totaling $8,100, the producers

had not fully met offsetting compliance requirements and were clearly not eligible for the payments. 1/ In these nine cases, the county offices either had not obtained or used information from other counties or had not used all compliance information on farms within their counties. For example:

--One producer had three farms in the same county, two participating and one nonparticipating. On the two participating farms, he had received $1,012 in deficiency and disaster payments. The county office's records showed that, although the nonparticipating farm's NCA was 99.2 acres, the producer had reported planting 103.1 acres of NCA crops, including two program crops--wheat and grain sorghum. Since the producer exceeded the NCA of the nonparticipating farm on which program crops were grown, he was not eligible for any program benefits. Because of our review, the county office initiated action to collect the mispayments.

--Another producer owned a nonparticipating farm in one county on which he grew program crops and had interests in participating farms in two other counties. He had received deficiency and disaster payments totaling $1,195 on the participating farms. There was no evidence that the two counties with participating farms had made offsetting compliance checks. In reviewing this case, we noted that the producer had exceeded the nonparticipating farm's NCA and thus was not eligible for the payments on the participating farms. ASCS officials told us they would initiate action to obtain a refund.

In the three remaining cases, involving $1,600 in payments, the producers had not reported their crops and planted acres for 1978 on all nonparticipating farms. County office personnel agreed that payments should not have been made until the acreage reports had been received.

As a result of our review in one Kansas county office, county personnel completely analyzed all 1978 offsetting compliance cases before issuing additional deficiency payments. The analysis showed 37 cases where program payments had been

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1/In two of the cases, erroneous payments totaling about $1,700 had been made by counties other than our review counties.

made on participating farms whose producers had interests in nonparticipating farms in the same or other counties on which NCAs were exceeded or for which either no or incomplete 1978 acreage reports had been received. Of the 37 cases, 27 involved nonparticipating farms in the same county. The county initiated action to recover any erroneous payments.

In five of the eight counties reviewed in Minnesota and Colorado, we also found cases where counties had failed to make all offsetting compliance checks with other counties.

Need for standard form for obtaining offsetting compliance information

ASCS had not established a standard form to be used by county offices when requesting offsetting compliance information from other counties. As a result, the forms used by the counties varied considerably and did not always request all the information needed to make offsetting compliance checks. For example, one county's form requested only the farm number and information on whether the farm had exceeded its NCA. It did not request information, as did other counties, on whether the farm was participating and whether program crops were planted. Such information is needed if the requesting county is to adequately determine offsetting compliance.

PROBLEMS WITH SET-ASIDE COVER

ASCS has established that some small grain crops, such as wheat, barley, and oats, can be grown on set-aside acres. Small grain is usually planted in the fall or early spring, clipped to prevent seed formation in early summer, and left standing until the land is again prepared to seed small grain. Unless ASCS closely monitors producers' use of these covers for set-aside acres, opportunities exist for producers to harvest crops from these acres. In addition, county offices need to (1) record information on the set-aside cover when a producer reports acreages, (2) document the adequacy of the set-aside cover when a farm is inspected to insure that the set-aside acreage is devoted to an approved cover or other approved conservation use, and (3) when a problem with set-aside cover is documented, record enough data to show that the problem was resolved.

Some approved covers invite producer dishonesty

Among the covers or practices that ASCS has approved for use in protecting the set-aside acreage from wind and water erosion are:

--Small grains, including volunteer stands other than weeds which meet the criteria set forth by the State committee. These grains must be clipped to prevent seed formation.

--Annual, biennial, or perennial grasses and legumes, including volunteer stands other than weeds which meet the criteria set forth by the State committee, but excluding soybeans.

--Planting for wildlife food plots or wildlife habitat provided certain conditions are met. Grain planted for this cover is allowed to mature.

In reviewing the files on about 2,000 farms that the 12 county offices we reviewed had spot checked in 1978, we noted that 26 farms in 7 counties had been identified by ASCS as harvesting or intending to harvest the set-aside covers or not making the set-aside covers unharvestable. The set-aside covers for 15 of the 26 farms 1/ in 6 counties involved small grains, such as wheat or oats.

County-level personnel had differing opinions on whether ASCS should allow small grains to be used as cover on set-aside acres. For example:

--The county executive director and the county committee at one county office believed that small grain crops planted in the spring should not be allowed as a set-aside cover because enforcement was difficult. This belief was expressed in a letter to ASCS headquarters in which the county committee pointed out that in several cases the crops on the set-aside acres looked so good that producers decided to drop out of the program and harvest the intended set-aside acres. In the same letter, the county committee expressed concern about those producers who also may have harvested their set-aside acres but had not dropped out of the set-aside program.

--Another county office's executive director said that small grain crops should not be allowed as set-aside cover because the temptation is too great for the

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1/For the 11 remaining farms, county office records either did not identify the set-aside cover or showed that it was grain sorghum, alfalfa, sunflowers, or grass.

producer to harvest the grain, especially when the crops look good, and hope to be missed in the spot-check selection.

--At a third county office, the county executive director said he believed that small grains should be allowed as a set-aside cover because it was a good, established farming practice and determining compliance had not been a problem in his county.

--The county executive director in a fourth county said that getting producers to participate in the set-aside program would be difficult if small grains were not allowed as set-aside cover because producers would be required to buy expensive seeds for the cover. He said that producers in his county generally have oat seeds on hand and this cover crop was used on about 95 percent of the county's farms. He also said that ensuring that the set-aside cover had been clipped and not harvested had not created any special problems.

The set-aside programs' purpose is to reduce the production of certain grains by taking land out of production. This is accomplished by requiring participating producers to plant less than the farms' established NCAs. We believe that allowing small grains, such as wheat or oats which are NCA crops, to be used as set-aside covers has reduced the programs' effectiveness since some producers have harvested their small grain covers. When ASCS found such harvesting, appropriate disciplinary action was taken. However, because county offices did not follow required sampling procedures (see p. 18) or make spot checks in a timely manner (see p. 20), the possibility exists that other producers had harvested crops from their set-aside acres but were not detected by ASCS.

Verification of set-aside cover adequacy is not always documented

Set-aside acreage must be devoted to an approved cover or other approved conservation use which will effectively protect the set-aside acreages from wind and water erosion throughout the calendar year. To effectively manage the set-aside programs, ASCS needs to have information on whether producers are meeting these requirements as they enter and continue in the set-aside programs.

Eight of the 12 county offices we reviewed had not always recorded information on the type of set-aside cover when producers certified their planted and set-aside acres. For example:

--Of 240 farm files we reviewed in one county, 32 did not contain any evidence that the set-aside covers had been documented at the time of certification.

--In another county, we noted the same situation in 21 of the 27 cases we reviewed.

Also, the county offices had not always (1) documented the adequacy of the set-aside covers on the farms that they inspected--ASCS instructions require such documentation only when problems with the set-aside cover are observed--or (2) obtained enough data to show that identified problems with set-aside covers were corrected. Without this information, ASCS does not have assurance that set-aside acreages are being adequately maintained.

--In one county, for example, we reviewed the files on 227 farms that county office employees had inspected. For 124 farms, either no documentation existed on the adequacy of the set-aside cover or the documentation was insufficient to show whether a problem existed and if so that it had been corrected. For one farm where the producer had certified to an oats cover, the only documented comment as to what was found during an inspection was the phrase "still standing." This comment raises questions as to whether the producer had let the oats mature and if they had been harvested, which is not allowable. The files did not indicate if a subsequent inspection was made to ensure that the oats were clipped and not allowed to mature. For several other cases, the only documented comment on set-aside cover was the word "volunteer." This type of comment is insufficient to disclose the adequacy of the set-aside cover because it can't be determined whether the volunteer cover had been properly clipped or was allowed to mature and be harvested.

--In another county, we reviewed the files on 25 farms that had been inspected. There was no documentation on four farms to show the adequacy of the set-aside cover at the time of inspection. On five other farms, documentation showed that the small grain covers were good or they were to be clipped. However, there was nc documentation showing whether the covers were harvestable or whether followup visits were made to determine if they had been clipped.

AERIAL OBSERVATION--A MAJOR POLICY DECISION

About 4 years ago, some ASCS county offices began using aerial observation to verify producers' certifications of their planted acreages. In January 1979, ASCS announced that all counties would use aerial observation for determining compliance with farm programs on all commodities, unless the counties could show that they could get the job done on time with ground measurement and at a cost no greater than aerial observation costs. In addition, counties were directed to determine acreages, by aerial observation, on all participating farms. This was a major change from the 1978 compliance program for wheat and feed grains in that most compliance had been determined by ground measurement on a sample of farms.

Later in January, ASCS decided that, because of budgetary limits and the limited availability of equipment needed for aerial observation, all counties would not be able to determine acreages on all farms. It reported that about 1,750 counties would use aerial observation to determine compliance in 1979, of which about 675 would determine acreages on all farms. At the close of our review, ASCS was reevaluating its policy on using aerial observation for compliance activities and the need to determine acreages on all farms for wheat and feed grain compliance programs. In August 1979, headquarters officials told us that they did not think it was going to be necessary to determine acreages on all wheat and feed grain farms, but that a final decision had not been made.

Merits of aerial observation

Aerial observation involves checking compliance by taking 35-mm color slides from an airplane flying at least 4,000 feet above the ground. After being developed, the slides are superimposed on official scale photographs. Official scale photographs are taken about every 10 years and can be used to determine exact acreages. The slides are aligned with the scale photographs, field boundaries are traced, and acreages are determined by using a device called a planimeter.

The use of aerial observation to verify acreage certifications appears to have merit. Seven of our 12 review counties had used aerial observation in 1978 to determine compliance on some farms. Personnel in all seven county offices and the respective State offices generally endorsed it as the way to determine compliance because they believed it was more accurate, faster, and more economical than ground measurement because more acres could be covered at less cost. For example, a flying service estimated that it could fly over a whole

county in about 18 hours while an employee using ground measurement may only be able to gather data on about four farms a day. All 12 counties planned to use aerial observation to determine compliance during 1979--four counties were going to determine acreages on all participating farms and eight were going to determine acreages on farms selected by random sample plus the required spot checks.

Need to measure all farms in a county is questionable

Although the use of aerial observation has merit, we do not believe it should be necessary to determine acreages on all wheat and feed grain farms because our review in the 12 counties showed that most producers were already accurately certifying their planted acreages and because costs would increase greatly if acreages were determined on all farms rather than on a sample of farms. Our comparisons of producers' certifications with the 12 county offices' measurements showed that, for the three States, an average of 83 to 90 percent of the producers' certifications of their planted barley, corn, grain sorghum, wheat, and total NCA acreages were within acceptable tolerances, as shown in the following table.

Commodity and State	Number of acreage certifications: Spot checked	Number of acreage certifications: Within ASCS tolerances	Percent
Barley:			
Colorado	114	95	83
Kansas	19	15	79
Minnesota	250	207	83
Total	383	317	83
Corn:			
Colorado	105	90	86
Kansas	112	90	80
Minnesota	221	183	83
Total	438	363	83
Grain sorghum:			
Colorado	136	122	90
Kansas	318	261	82
Minnesota	1	0	0
Total	455	383	84
Wheat:			
Colorado	529	476	90
Kansas	499	442	89
Minnesota	400	342	86
Total	1,428	1,260	88
NCA:			
Colorado	619	553	89
Kansas	245	215	88
Minnesota	499	454	91
Total	1,363	1,222	90

One of the major costs involved in aerial observation is the staff time and equipment necessary to determine acreages after the slides have been developed. ASCS has recently completed a study of the staff time and equipment costs per farm by using three different types of planimeters. This study will also give ASCS data to determine how much more costly it will be to determine acreages on all farms versus determining acreages on a sample of farms. On the basis of past participation, we believe that the difference will be significant. For example, on the basis of participation in the 1978 programs, measuring the acreages on all

farms would have meant looking at over 800,000 farms while measuring a sample would have involved only about 120,000 farms.

To help determine its long-range policy on the methods for determining acreages, ASCS is in the process of compiling and analyzing data received from counties which determined 1979 compliance by one of four methods. These were (1) using aerial observation to measure all farms for which program provisions required acreage determinations, (2) using ground measurements to measure all farms for which program provisions required acreage determinations, (3) using aerial observation to measure randomly selected farms, and (4) using ground measurements to measure randomly selected farms.

CONCLUSIONS

The set-aside programs' effectiveness would be improved if ASCS adopted a stricter certification and compliance program in place of good faith determinations and monetary penalties. This change would help ensure better compliance, simplify program administration, and reduce county office workload and some of the problems county offices have in administering the programs.

Such a program should include an acceptable variance (we believe 5 percent up to a maximum of 25 acres is fair) which all certifications must be within; expulsion from the program of producers whose certified acreages exceed the variance or who otherwise do not comply with program requirements; and a State and/or national level appeal process for those producers expelled from the program, with readmittance only if (1) relief is granted at the State or national level and (2) the acreages are brought into compliance. For example, a producer without enough set-aside acres would be required to destroy the excess planted crop to be in compliance. To assist the State and national offices in deciding when relief should be granted, ASCS needs to define specifically those circumstances which would allow a producer who is not in full compliance to retain eligibility for other farm program benefits.

The State offices need to improve their supervision of the county offices' administration of the set-aside programs. One of the cornerstones for determining compliance has been the random sample selection of farms for verifying planted and set-aside acres. ASCS believes that a properly selected sample should identify 90 percent of the producers who may have incorrectly certified their acreages. When county offices do not follow required sampling procedures, they have no assurance that sampling has achieved the desired results

or that the results that are obtained are statistically reliable. In addition, unless spot checks required by the random samples are made in a timely manner, verification that producers complied with set-aside requirements is difficult to determine.

State offices also need to ensure that county offices are making all required offsetting compliance checks. When county offices do not request or use offsetting compliance information, producers who may not have complied fully with set-aside requirements are eligible to receive other farm program benefits. In addition, a standardized form for counties to use when requesting offsetting compliance information from other counties would help ensure that counties are requesting all necessary information.

ASCS needs to revise its internal procedures so that county offices are required to document, under all circumstances, the adequacy of set-aside covers. In addition, ASCS needs to stress to county offices the importance of documenting followup visits to farms on which the potential for abuse of set-aside covers has been identified. When properly completed, records of farm visits would provide management with more assurance that set-aside lands are being taken out of production and properly maintained to prevent water and wind erosion, as required by the Food and Agriculture Act of 1977.

The use of small grains as a cover on set-aside acres provides producers with the opportunity of harvesting a crop from their set-aside acres without detection by ASCS. During 1978, producers who were found to have harvested the cover crops were normally expelled from the program. However, because county offices did not always follow required sampling procedures, perform spot checks in a timely manner, document the type of cover on set-aside acres, or show that the cover crop had been properly clipped, the possibility exists that more producers harvested cover crops from their set-aside acres but were not detected by ASCS. By increasing the number of visits to farms having small grains as cover on set-aside acres to ensure that the cover crop is clipped prior to seed formation, ASCS could further reduce the potential for abuse.

ASCS' proposal to expand the use of aerial observation to assist county offices in determining compliance with farm programs has merit. However, aerial observation should be used only where feasible and cost effective. Also, we question ASCS' proposal to determine acreages for all participating farms. The certified acreages of most producers in the review counties were within acceptable tolerances,

and costs would increase greatly if acreages were determined on all participating farms rather than on a sample of such farms.

RECOMMENDATIONS TO THE SECRETARY OF AGRICULTURE

We recommend that, to improve the compliance aspects of the set-aside programs and thereby also improve overall program effectiveness, the Secretary of Agriculture direct the Administrator, ASCS, to:

--Establish a strict compliance program under which producers who incorrectly certify their acreages would be denied program participation unless they are granted relief through a State and/or national appeal process; and specifically define the circumstances in which relief would be granted. This program would take the place of the current system of good faith determinations and monetary penalties.

--Require that State offices more closely monitor county office activities to ensure that required sampling procedures are followed, that spot checks are made timely, and that all offsetting compliance checks are being made.

--Develop a standardized form for counties to use in obtaining offsetting compliance information from other counties.

--Revise procedures to require that the adequacy of set-aside covers be documented both at the time of certification and at the time of farm inspection and that followup visits to check on correction of any identified problems be made and documented.

--Revise procedures to increase the number of visits made to farms having small grains as cover on set-aside acres to ensure that the cover crop is clipped prior to seed formation.

--Have county offices (1) use aerial observation to assist in wheat and feed grain compliance determinations where feasible and cost effective and (2) make acreage verifications, for the most part, on a random sample of farms plus other required checks.

AGENCY COMMENTS AND OUR EVALUATION

USDA advised us by letter dated October 26, 1979 (see app. III), that it does not agree with our recommendation that it eliminate the current system of good faith determinations and monetary penalties and establish a strict compliance program under which producers who incorrectly certify their acreages would be denied program participation unless they are granted relief through a State and/or national appeal process. USDA recognizes that it has had problems with its failure-to-fully-comply provisions. However, it believes that the process as a whole has value in that it provides relief to producers who find themselves in a position of suffering great loss of income for reasons beyond their control or intentions. USDA said that certain problems in administering the failure-to-fully-comply provisions occurred because each individual case had its own merits and needed individual consideration.

According to USDA, failure-to-fully-comply and payment reductions are applicable for program defaults primarily in random selection counties (acreage certification counties) where the farm operator has no opportunity to adjust acreages to correct an error discovered as a result of an ASCS farm visit. As a result, USDA believes that payment reductions are not only fair but necessary. USDA also said that it does not believe it would be in the best interest of the program or more economical to grant relief only through the appeal process, as this would only transfer the workload and decisionmaking process from one level to another higher level.

We are not recommending that all producers who fail to accurately certify their planted or set-aside acreages for reasons beyond their control or intentions be denied other farm program benefits, such as disaster and deficiency payments. Our recommended State and/or national appeal process would provide relief to those producers whose reasons for failing to comply fully meet ASCS' criteria for allowing continued program participation. However, before this appeal process can work, ASCS needs to define specifically those circumstances in which noncomplying producers can still retain their eligibility for other farm program benefits.

USDA advised us that, in revising the failure-to-fully-comply handbook for 1980, it will take a look at strengthening the criteria on what constitutes good faith. In our opinion, USDA needs to do more than this. Without specifically defining the circumstances under which noncomplying producers can retain program benefits, county and State committees will continue to allow such producers to remain in the programs for any and all reasons. This would not, in

our opinion, provide fair or equitable treatment between noncomplying producers and those who make a conscientious effort to certify their acreages within ASCS tolerances.

Although ASCS is a service organization to farm operators, we believe that all producers must accept the responsibility for making acreage certifications within ASCS tolerances before being eligible to receive other farm program benefits. As data developed in our 12 review counties showed, about 86 percent of the acreage certifications for 1978 were within acceptable ASCS tolerances. As a further aid to producers in certifying acreages within acceptable tolerances, county offices provide an acreage measurement service.

We believe that ASCS' current system of determining the good faith of and assessing monetary penalties against noncomplying producers has not been fair to either those producers who did or those who did not comply fully. In addition, we believe that a more severe penalty than a monetary one is necessary to ensure full compliance. Most noncomplying producers in our review counties retained their eligibility to receive other farm program benefits (the same benefits obtained by producers who complied fully) and, in many cases, were only assessed small monetary penalties.

We believe that eliminating monetary penalties would go far toward ensuring equal treatment of noncomplying producers in different States and different counties within the same State. We believe that ASCS will continue to experience difficulty in obtaining fair and equal treatment of producers who failed to comply fully with set-aside requirements as long as its 50 State and about 3,050 county committees have the authority to impose and reduce the size of monetary penalties. (For the 1979 program, county committees, in addition to State committees and ASCS headquarters, had the authority to reduce some penalties, subject to the approval of a State committee representative.)

We question whether USDA is correct in its belief that it would not be in the best interests of the program or more economical to grant relief through the appeal process as this would only transfer the workload and decisionmaking process from one level to another. In our opinion, under the current system of good faith determinations and monetary penalties, ASCS is spending some of its limited resources on producers who either cannot or will not report acreage certifications within acceptable ASCS tolerances. For example, officials in our review counties estimated that their costs in processing a default case involving penalties ranged from $15 to

$135 per case, and the Kansas State ASCS office estimated that processing 1,480 default cases for crop year 1978 would cost about $19,350.

In addition, if producers are uncertain about the sizes of their planted or set-aside acreages, county offices provide measurement services upon request and for a nominal fee. Further, we believe that producers would be more inclined to comply fully with set-aside requirements if they knew that a program default, such as an acreage certification outside of acceptable ASCS tolerances, would result in the denial of other farm program benefits. This should then reduce the number of producers found not in full compliance. By requiring producers to comply fully with set-aside requirements and specifically defining the circumstances in which relief could be granted, ASCS should greatly reduce the number of instances in which such relief is granted.

We initially proposed that USDA restrict the use of small grains as cover on set-aside acres to areas where other vegetative covers or other conservation practices are not available or practical. USDA disagreed with this proposal because the use of small grains is considered a good established farming practice; a good wildlife practice; and, in some areas of the country, it is the most practical cover year in and year out, according to USDA. USDA also said that specific procedures would be provided to assure followup visits to determine that small grain on set-aside acreage is clipped before seed formation. Further, it said that these procedures will also deal with followup visits to determine that weeds and rodents are controlled; that acreage is not grazed, hayed, or harvested; and that any other requirement is carried out timely regardless of the cover crop being used.

Because of these proposed corrective actions, we revised our recommendation on small grain covers. (See p. 32.) However, if USDA's proposed actions reveal that producers are still not clipping the small grain cover crops before seed formation, we believe that USDA should reconsider our initial proposal.

In responding to our recommendation on the use of aerial observation, USDA said that it is formulating a long-range policy on the methods for determining acreages. It also said that it expects to determine the policy and procedural changes needed for the 1980 compliance activity, taking into consideration the long-term policy direction. USDA said that recommendations developed from ASCS' ongoing study of the different compliance options used in 1979, a special study on

effectiveness of special planimeters, and decisions made by top management will consider our findings and recommendations, among other items.

Although USDA agreed to consider our recommendation in formulating its long-range policy on methods to be used in determining acreages, we are concerned that it still may be considering determining acreages on all farms by means of expensive planimeters, which we believe is not cost justified. As of the close of our review, USDA had not provided us with cost data which justifies determining acreages on all farms. Therefore, we believe that our recommendation has merit. As the report points out, any cost data on determining acreages on all farms must take into account the fact that this will involve determining the acreages on many more farms than normally is necessary when a sample is used. In the 1978 programs, measuring the acreages on all farms would have meant looking at over 800,000 farms; measuring a sample would have involved only about 120,000 farms.

USDA said it agrees with our remaining recommendations.

CHAPTER 3

ASCS NEEDS TO REESTABLISH ALL WHEAT AND FEED GRAIN FARMS' NORMAL CROP ACREAGES

A farm's normal crop acreage is supposed to represent acreage normally planted to crops for harvest. With certain exceptions, the base period for establishing NCAs for the 1978-81 farm programs was to be the 1977 planted acreage of crops and any volunteer acreage of crops harvested for grain. NCAs are used as an aid in controlling total crop acreages when set-aside programs are in effect. They may also be used to implement future farm legislation.

Although ASCS had recognized that many errors had been made in establishing NCAs and had instructed its county offices to reexamine and/or reestablish them, our review of 226 initially established NCAs for crop year 1978 in the 12 review counties showed 57 cases in which the NCAs (1) did not represent the farms' normal plantings, (2) were established contrary to ASCS instructions, or (3) were otherwise questionable based on information or lack of information in the files. Also, in reviewing 107 cases in which county committees had adjusted the 1978 acreages after considering producers' appeals, we found 45 cases in which the adjustments were incorrect or not adequately supported.

In most cases, the incorrect, questionable, or inadequately supported NCAs were overstated. When the NCA is overstated, producers in effect are able to claim for set aside a number of acres that normally would not have been planted.

Other evidence indicating that many NCAs were established or adjusted incorrectly or without adequate support included (1) cases in which producers failed to plant up to their NCAs, (2) the numerous adjustments county offices made to established NCAs, and (3) Office of Inspector General audits in other States and counties which identified many of the same problems we did.

We believe that ASCS needs to reestablish all wheat and feed grain farms' NCAs based on recent planting histories, such as those for 1977, 1978, and 1979; and that, to help assure proper administration of future farm programs, ASCS should obtain information annually on all farms' planted acreages.

WHY CORRECT NCAs ARE NECESSARY

One of the objectives of the 1978 wheat and feed grain set-aside programs was to encourage producers to plant fewer acres in 1978 than they planted in 1977, thereby reducing total wheat and feed grain production to bring it more in line with anticipated demand. A farm's NCA is the main basis for determining the number of planted and set-aside acres when a set-aside program is in effect. Together, planted and set-aside acres should not exceed a farm's NCA.

The NCA generally was to be established on the basis of the actual number of acres planted in 1977 to NCA crops and any volunteer acreage of these crops harvested for grain. For example, if a farm's planted acreage in 1977 consisted of 100 acres of wheat, the farm's NCA would be 100 acres. This would mean that the producer would have been allowed under the 1978 program to plant up to about 83.3 acres of wheat and set aside the remaining 16.7 acres.

In a February 1, 1979, notice to its field offices, ASCS stated the importance of correct NCAs as follows.

> "NCAs established on individual farms will be used to compute program benefits through the 1981 crop year. If county committees do not establish NCAs which are normal for the farms, program payments will be incorrect and any control over commodity production and prices will be lost."

Accurate NCAs could also be needed to implement future farm legislation. Although the set-aside provisions of the 1977 Food and Agriculture Act expire in 1981, similar provisions could be included in farm legislation for 1982 and beyond. In addition, several bills (including S. 1696, S. 2028, S. 2036, and H.R. 3398) introduced in the 96th Congress would limit producers to planting within NCAs in the 1980 and 1981 crop years even though no set-aside programs would be in effect, in order to be eligible for loans, purchases, and payments.

SOME INITIALLY ESTABLISHED NCAs WERE INCORRECT OR QUESTIONABLE

As summarized in the following table, in 11 of the 12 counties we identified one or more cases where the initial NCAs were incorrect or questionable.

County office	Reviewed	Initial NCAs: Incorrect (note a) Number	Initial NCAs: Incorrect (note a) Percent	Initial NCAs: Questionable (note b) Number	Initial NCAs: Questionable (note b) Percent
Colorado:					
Adams	20	4	20.0	1	5.0
Kit Carson	17	3	17.6	7	41.2
Prowers	25	1	4.0	7	28.0
Weld	21	1	4.8	7	33.3
Kansas:					
Cherokee	10	1	10.0	-	-
Dickinson	10	-	-	1	10.0
Marion	11	1	9.1	1	9.1
Rawlins	25	5	20.0	7	28.0
Minnesota:					
Clay	12	-	-	1	8.3
Redwood	23	-	-	-	-
Renville	26	-	-	4	15.4
Wilkins	26	-	-	5	19.2
Total	226	16	7.1	41	18.1

a/This category includes those cases where the planting history and/or other records showed that the established NCA did not represent the farm's normal planting or that the basis the county committee used to establish the NCA was contrary to ASCS instructions.

b/This category includes those cases where the file information indicated that the NCA may be overstated or understated but, because the file did not have all the information needed, such as the farm's complete planting history, to clearly show that the NCA was incorrect, we are classifying the case as questionable.

ASCS selected 1977 planted acreage as the usual basis for establishing NCAs because the county offices had not always obtained individual farm crop acreage data for the previous 3 years. Exceptions to using 1977 planted acreage as the NCA basis included the following:

--If a farm's cropland was on an odd-even planting rotation cycle, 1/ then the farm was to have two NCAs: one based on 1976 plantings for even years (1978 and 1980) and one based on 1977 plantings for odd years (1979 and 1981).

--If 1977 plantings were abnormal, then 1975-76 cropland data could be used to establish the NCA.

--If the producer had a bona fide change of operations, then any increase or decrease in acres normally planted was to be considered in establishing the NCA.

The incorrect or questionable NCAs we identified were caused by one or more factors, such as:

--The 1977 planted acreage on which the NCA was based was not normal when compared with the farm's planting history.

--The county committee did not consider the farm to have an odd-even cropland rotation pattern although such a pattern was evident.

--The NCA was based on a certain percentage of the farm's total cropland which, according to ASCS instructions, was not an acceptable criterion.

--The NCA was based on something other than prior years' plantings and was not supported by county office records.

--The NCA included grassland acres or NCA acreage from other farms, which ASCS instructions prohibit.

The following are some examples of incorrect NCAs and their effect on the set-aside programs' objective of taking cropland out of production.

Farm A. The NCA was set at 89.1 acres based on the farm record card which showed 1977 plantings of 42 acres of wheat and 47.1 acres of rye. The farm's planting history was as follows:

1/Odd-even rotation is considered to exist if a regular crop rotation pattern is followed in odd- and even-numbered years with a high NCA in one year and a low NCA in the other year.

Year	Acres	Crop(s)	Year	Acres	Crop(s)
1972	69.1	Wheat, milo	1975	57.2	Wheat
1973	63.7	Wheat, milo	1976	No record	
1974	67.8	Wheat	1977	89.1	Wheat, rye

Because the 1977 plantings appeared high, we examined further records in the farm folder and found that the 47.1 acres shown as rye on the farm record card were seeded grasslands under the Agricultural Conservation Program which, according to ASCS instructions, cannot be counted in establishing a farm's NCA. County officials agreed that they had erred in establishing the NCA.

Because the NCA for this farm was overstated, the set-aside program had no effect in taking cropland out of production. If the NCA had been set correctly at 42 acres--the acreage planted to wheat in 1977, the most wheat this producer could have planted under the 1978 set-aside program would have been 35 acres. (The total number of acres a participating producer can plant is restricted to the NCA minus the set-aside acres--see p. 3.) In 1978, the producer planted 38.4 acres of wheat and 14.8 acres of milo.

Farm B. The NCA was set at 373.2 acres, although the farm's planting history was as follows:

Year	Acres	Crop(s)	Year	Acres	Crop(s)
1972	323.6	Wheat, milo	1975	313.3	Wheat
1973	313.2	Wheat	1976	321.3	Wheat
1974	321.3	Wheat	1977	364.1	Wheat, milo

According to the county executive director, the county committee apparently used the wrong acreage data in setting the NCA at 373.2 acres and for 1979 it had reduced the NCA to 364.1 acres, the reported plantings for 1977. Even this figure appeared high, however, when compared with the plantings for 1972-76.

The producer told us that the 1977 plantings had included 53.5 acres of milo which were planted only after about the same number of wheat acres had been destroyed by hail. The milo plantings were not normal for this farm and, in our opinion, should not have been counted in establishing the NCA. Also, deducting the 53.5 acres from the 364.1 acres (1977 plantings) leaves 310.6 acres--about the same number of

acres planted in 1973 and 1975--which indicates an odd-even rotation pattern, high in even years and low in odd years.

The county committee disagreed that the revised NCA of 364.1 acres for 1979 was incorrect because it represented only 57.4 percent of the farm's total cropland, which is normal farming practice for this area. However, using a specific percentage of total cropland is not an acceptable criterion for establishing NCAs.

Because the NCA for this farm was overstated, the 1978 and 1979 set-aside programs had only a limited effect in reducing the farm's normal crop production. If the NCA for 1978 had been set at 321.3 acres (even year plantings in 1974 and 1976), the producer would have been allowed to plant only 267.7 acres of wheat, thus taking about 53 acres out of production. Instead, the producer planted 309 acres of wheat, removing only 12 acres of normal cropland from production. For 1979, the NCA was reduced to 364.1 acres. However, it was still overstated by nearly 51 acres when compared with odd-year plantings in 1973 and 1975 (364.1 - 313.3 = 50.8 acres).

<u>Farm C</u>. The farm's NCA was set at 185.5 acres, although its planting history was as follows:

Year	Acres	Crop(s)	Year	Acres	Crop(s)
1972	142.3	Wheat, milo	1975	181.1	Wheat, milo
1973	177.5	Wheat, milo	1976	123.8	Wheat, milo
1974	158.5	Wheat, milo	1977	185.5	Wheat, milo, and oats

The planting history shows an odd-even pattern with fewer acres planted in even years. By basing the NCA on 1977 (odd year) plantings, the NCA for 1978 (even year) was overstated.

The 1978 set-aside program did not result in taking any normal crop acreage out of production on this farm. In 1978, the producer planted a total of 136 acres (85.6 acres of wheat and 50.4 acres of milo), which is more than the 123.8 acres (1976 plantings) which, according to ASCS instructions, should have been used to set the even-year NCA.

The county executive director agreed that the producer had not taken normal crop acreage out of production in 1978. He said that, while he and the county committee had originally thought the NCA was correct, the county committee was going to meet with the producer regarding his planting pattern.

Farm D. The NCA for this farm was set at 283 acres, which did not coincide with the farm's planting history, as shown below.

Year	Acres	Crop(s)	Year	Acres	Crop(s)
1972	231.1	Wheat	1975	234	Wheat
1973	270.7	Wheat, milo	1976	234	Wheat
1974	231	Wheat, milo	1977	471.9	Wheat, milo

Until 1977, about 50 percent of this farm's cropland was summer-fallowed--a practice in dryland areas where producers normally leave a portion of their cropland idle for a year to accumulate moisture for crop production the next year. In 1977, the producer originally planted 237.9 acres of wheat. However, after the wheat was destroyed by hail, he planted 234 acres of milo on the land that would have normally been in summer fallow.

The county committee determined that 1977 was an abnormal year. One committee member told us that the committee's rationale for using 283 acres as the NCA was as follows: The producer told the committee that he had planned to increase his yearly planting from 50 percent to about two-thirds of his cropland by using more fertilizer and herbicides. However, after the wheat was destroyed, he planted all of his normally summer-fallowed land. The county committee concluded that the producer was making a bona fide change of operations in 1977, therefore justifying a higher NCA than the 234 acres which he normally planted. However, the committee limited the NCA to 283 acres, or about 60 percent of the 471.9 acres planted in 1977, because it assumed that, in a normal planting year, producers would plant about 50 to 60 percent of a farm's total cropland acres.

We question the NCA for this farm. If the county committee determined that the producer had actually intended to increase his yearly planting to about two-thirds of his cropland, it would seem that the NCA should have been set at 315.5 acres (two-thirds of 473 acres which, according to the county office records, was the total cropland acres for the farm). If the committee determined that there was not a bona fide change in farming operations, the NCA should have been set at 234 acres based on the planting history. County officials maintained that 283 acres was the correct NCA.

In our opinion, the 1978 set-aside program did not result in taking any normal crop acreage out of production on

this farm because of the overstated NCA. In 1978, the producer certified that he planted 234 acres of wheat--the same amount he had planted annually from 1975 through 1977. He did not plant any milo. Had the NCA been set at 234 acres, the producer would have been allowed to plant only 195 acres of wheat to be in compliance with the set-aside requirements.

Farm E. The NCA for this farm was set at 60 acres based on 60 acres of wheat planted in 1977. This appeared high based on the farm's planting history as shown below.

Year	Acres	Crop	Year	Acres	Crop
1972	48	Wheat	1975	42	Wheat
1973	37	Wheat	1976	No record	
1974	48	Wheat	1977	60	Wheat

The county executive director said the producer grew grain sorghum which was not reflected in the previous years' records. Although county office records showed that the farm had had grain sorghum and barley allotments, there was no indication that the producer had actually grown the commodities. In 1978, the producer planted 48.8 acres of wheat and set aside 9.8 acres.

SOME NCA APPEAL ADJUSTMENTS WERE INCORRECT OR QUESTIONABLE

As summarized in the table below, we identified one or more cases in each of the 12 counties where NCA adjustments, which county committees made after considering producers' appeals, were incorrect or questionable.

County office	NCA appeal adjustments				
		Incorrect		Questionable	
	Reviewed	Number	Percent	Number	Percent
Colorado:					
Adams	6	1	16.7	1	16.7
Kit Carson	5	1	20.0	3	60.0
Prowers	10	2	20.0	4	40.0
Weld	12	-	-	7	58.3
Kansas:					
Cherokee	10	1	10.0	2	20.0
Dickinson	10	1	10.0	-	-
Marion	10	2	20.0	1	10.0
Rawlins	10	4	40.0	-	-
Minnesota:					
Clay	8	-	-	3	37.5
Redwood	6	-	-	4	66.7
Renville	10	-	-	2	20.0
Wilkins	10	-	-	6	60.0
Total	107	12	11.2	33	30.8

ASCS instructions state that NCAs may be adjusted through the appeal process when, for example (1) 1975-76 cropland data showed that 1977 was an abnormal year, (2) non-cropland was broken out (plowed for cropping) or contracted to be broken out in 1977 in preparation for 1978 crop production, or (3) a change in farming practices, such as switching from livestock or dairy farming to grain farming, occurred after 1977.

The incorrect or questionable NCAs we identified were caused by one or more factors, such as:

--The adjusted NCA was based on high planting years rather than on the average of 1975 and 1976 plantings.

--The adjusted NCA did not reflect the farm's odd-even planting rotation pattern.

--The adjusted NCA was based on a change in farm operations which did not appear to be reasonable.

--The NCA was adjusted on the basis that 1977 was an abnormal year without adequate supporting data showing that it was abnormal.

--The adjusted NCA was based on a percentage of the total cropland without considering planting history.

--The producer did not plant up to the reestablished NCA.

Among the cases in which NCA adjustments were incorrect or questionable were the following.

Farm F. The NCA for this farm was set initially at 425.1 acres, which was about the number of acres planted to wheat in 1977. The producer appealed, and in April 1978 the county committee raised the NCA to 477.3 acres based on the average of 1974 and 1975 plantings. The farm's planting history was as follows:

Year	Acres	Crop(s)	Year	Acres	Crop(s)
1972	324.6	Wheat	1975	425.1	Wheat
1973	488.1	Wheat	1976	403.7	Wheat
1974	529.6	Wheat	1977	444.9	Wheat, oats

Adjusting the NCA based on the average of 1974 and 1975 plantings was contrary to ASCS instructions. Had the average of 1975 and 1976 plantings been used, as ASCS instructions required, the farm's NCA would have been 414.4 acres.

Because of the incorrect adjustment, the set-aside program was only about half as effective as it should have been in taking normal crop acreage out of production. If the NCA had been left at 425.1 acres, the producer would have been allowed to plant only 354.2 acres of wheat in 1978, or 70.7 acres less than the 424.9 acres of wheat planted in 1977. Instead, 387.3 acres were planted--only 37.6 acres less than 1977 plantings. For 1979, the county committee lowered the farm's NCA to 444.9 acres (1977 plantings). This would still overstate the farm's NCA, assuming 1977 plantings were abnormal when compared with 1975 and 1976 plantings.

Farm G. The NCA for this farm was set initially at 261.5 acres based on 1977 plantings, which were low compared with the farm's planting history, as shown on the next page.

Year	Acres	Crop(s)	Year	Acres	Crop(s)
1972	285	Wheat, barley	1975	331	Wheat, barley
1973	315	Wheat, barley	1976	342	Wheat, barley
1974	285	Wheat, barley	1977	261.5	Wheat, barley

In May 1978, the producer asked that the NCA be raised. The committee raised the NCA to 311.5 acres based on an average of 1975-77 planted acres. Information at the county office did not indicate the reason for the adjustment or the justification for using the average of 1975-77 plantings. The county executive director said that the farming operation was changed from dryland to irrigated farming on some of the land and in his opinion the adjusted NCA was correct.

The NCA of 311.5 acres is questionable, however, because (1) if 1977 plantings were abnormal, the county committee should have used the average of 1975 and 1976 plantings and established the farm's NCA at 336.5 acres or (2) if there was a bona fide change of operations from 1977 to 1978, then only the acres resulting from the change should have been added to 1977 plantings--not the average of previous years' plantings.

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Many of the NCA adjustments appeared to have been based primarily on written statements provided by the producers. In some cases, the statements were very brief, as the following examples show.

--"I would like to request 52 acres to be added to my NCA. I am going to break up some pasture, thank you."

--"1977 was not a typical operation of this farm. I request review of the NCA and use of my 1975 and 1976 figures to arrive at the NCA figures for this farm." 1/

--"We sold our cowherd and plowed up our alfalfa ground."

--"My 1977 crop acreage is lower than normal due to loss of hay and due to lack of water."

1/This appeared to be a preprinted form provided by the county office and was used in several cases.

In many of the cases, we were unable to find any evidence that the county offices attempted to verify the accuracy of the producers' statements through spot checks or through further discussions with the producers. Generally, the appeals were granted on the basis of the brief statements.

COUNTY OFFICIALS' VIEWS ON NCA CASES

County officials' and county committees' comments on the incorrect or questionable NCA cases varied depending on the circumstances involved. In several cases, the county officials agreed with our conclusions. In other cases, county officials and county committees believed that the NCAs we discussed with them were fair. Some of their comments were as follows.

--If the 1977 planted acreage was about 50 to 60 percent of the farm's total cropland acres, the committee assumed that 1977 was a normal planting year.

--The committee agreed that the NCA may be high in even years (this would make the set-aside less effective in even years) because the farm was on an odd-even planting pattern. However, it would not establish odd-even NCAs unless the producer asked it to do so.

--If the producer normally farmed only half of the farm's cropland, the years in which he did not were not considered normal.

--If the county committee believed that the prior years were not representative of farming practices, then the 1978 plantings were used for adjusting the NCA.

OTHER EVIDENCE THAT NCAs WERE INCORRECT OR UNSUPPORTED

Other evidence indicating that many NCAs were established or adjusted incorrectly or without adequate support in 1978 included (1) examples of producers who failed to plant up to their NCAs, (2) the numerous adjustments made by county offices, and (3) the results of the Office of Inspector General's audits.

Producers who failed to plant up to the farms' NCAs

In 11 of the 12 counties, we noted some cases where producers had planted substantially less than their established NCAs. Some examples follow.

Farm H. The NCA for this farm was set at 1,678.1 acres, the amount planted in 1977. The farm's planting history was as follows:

Year	Acres	Year	Acres
1972	1,089.6	1975	No record
1973	1,257.0	1976	No record
1974	1,490.0	1977	1,678.1

We question the NCA because in 1978 the farm's planted and required set-aside acreage totaled 1,557.3 acres, or 120.8 acres less than the established NCA.

Farm I. The farm's NCA was initially set at 90 acres, which was the same as 1977 plantings. Prior years' planting data was not available. In April 1978, after the producer appealed, the county committee raised the NCA to 172.7 acres based on what the committee determined to be a change in farming operations (taking non-NCA acres and planting them to NCA crops).

Data for 1978, however, showed that the producer planted only 78.8 acres and set-aside only 9.6 acres. This total of 88.4 acres was far less than the adjusted NCA but about equal to the originally established NCA. Also, for 1979, the producer planned to plant 100 acres and set aside 16 acres, or a total of 116 acres. Again, this was far less than the adjusted NCA. The county executive director agreed that the NCA for 1978 was too high.

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Although we recognize that some producers may have had valid reasons for not planting up to their NCAs, we believe that the existence of underplanted NCAs, along with the other evidence of overstated NCAs, indicates a need to reestablish NCAs on current planting history.

Numerous adjustments made to NCAs

Another indication of the problems ASCS has had in setting NCAs is the large number of adjustments counties have made after establishing NCAs. For example:

--One county had a total of 2,190 NCA farms. As of March 30, 1979, this county had adjusted 363 NCAs, of which 334 were raised by a total of 6,852 acres and 29 were lowered by a total of 469 acres. We did not

review all these cases. However, of the 11 established NCAs and 10 appeal NCAs we reviewed after the county had completed its review, 2 and 3, respectively, were incorrect or questionable.

--Another county had a total of 762 NCA farms totaling about 223,000 acres. As of March 15, 1979, this county had reviewed and made 289 adjustments to the NCAs. These adjustments raised the NCAs for 247 farms by a total of 20,215 acres and lowered the NCAs for 42 farms by a total of 3,396.2 acres. We did not review all these cases. However, of the 20 established NCAs and 6 appeal NCAs we reviewed following the county's review, 5 and 2, respectively, were incorrect or questionable.

Office of Inspector General audits

Office of Inspector General audits of State and county ASCS operations have also shown that (1) some initial NCAs were inflated and (2) some upward adjustments to NCAs were unwarranted. For example, a December 6, 1978, report on the Idaho State office and selected county offices pointed out that questionable NCAs existed in all 10 county offices reviewed because some county committees had

--totaled the highest reported acreage for each individual NCA crop for the 3 reporting years (1975-77) to obtain a total NCA,

--taken the highest year's total NCA reported as the normal NCA crop production for a farm,

--used acreage that the producer had left idle or had not been able to plant in 1977 to establish 1978 preliminary and effective NCAs,

--granted upward adjustments without considering complete crop reports for all reporting years,

--not ascertained when the actions which were used to justify upward adjustments occurred and whether they were intended to increase NCA crop production,

--granted increases to 1978 preliminary NCAs even though the 1977 NCA appeared normal, or

--used 1974 NCA plantings to get an NCA as large as possible for a farm.

A December 19, 1978, report on the Illinois State office and selected county offices pointed out that in one county NCAs were established incorrectly because county office employees computed soybean acreages from county records instead of requiring producers to certify to the acreages. Also, when a producer's 1978 certification showed more acres of NCA crops and set-aside than the farm's established NCA, county office employees increased the NCA by the difference. This resulted in incorrect adjustments to NCAs and permitted some producers to receive voluntary diversion payments without making the required reduction in their NCA crops.

On April 20, 1979, the Office of Inspector General reported that its review of 356 NCAs in 21 counties in Iowa, Kansas, Missouri, and Nebraska showed that adjustments to 183 NCAs were either unwarranted, unsupported, or incorrect. Examples of such adjustments included the following.

--Upward adjustments were granted for late-filed appeals which brought some producers into compliance with program provisions.

--Numerous NCAs were increased using 1975-76 crop data because 1977 was considered abnormal. However, the reasons why 1977 was abnormal were not always documented. In addition, the methods counties used to compute the NCAs varied.

--Some NCAs were overstated because the county committees did not use the acreages determined for 1975 or 1976 disaster claims.

--Changes in farming operations, one of the justifications for increasing NCAs, were not always *bona fide* because there was no corresponding increase in nonconserving crops or reduction in livestock operations.

ASCS EFFORTS TO CORRECT NCAs

ASCS recognized that many errors had been made in establishing NCAs and, before we began our review, it had instructed its county offices on four different occasions to reexamine and/or reestablish NCAs. As a result of these instructions, some counties included in our review had reviewed the NCAs and in many cases had adjusted them. However, the NCAs we identified as being incorrect or questionable were those which existed after the counties had completed their reviews. Accordingly, more needs to be done to make sure NCAs are correct.

On October 18, 1978, ASCS issued a notice instructing the county offices to change 1977 acreages of NCA crops (up or down) to correct errors which could be verified and then correct the NCAs accordingly. The notice listed the following errors as having caused incorrect NCAs.

--Producer failed to report a field planted to an NCA crop.

--Producer reported acreage substantially in error.

--Official acreage (ASCS field maps) for a field was substantially in error.

--County office made errors.

On November 8, 1978, ASCS issued another notice stating that NCAs were improperly established because:

--NCA crop planting in 1977 was not considered.

--The NCA was adjusted upward without regard to 1975-76 total cropland data for the farm.

--The NCA was established and/or adjusted on the basis of county committee policy that was not within the committee's authority; for example, establishing the NCA at 50 percent of the total cropland because that was normal cropping in the county.

The notice required the State office district directors to review at least 10 percent of all current farm records in each county to determine whether the county committees had followed procedures in establishing the NCAs. If the NCAs established for 1978 were found to be incorrect, the counties were supposed to reestablish NCAs for 1979 but not adjust the NCAs for 1978.

On February 1, 1979, ASCS issued a third notice stating that a number of county office audits in all areas of the country indicated numerous cases in which questionable NCAs and unwarranted adjustments to NCAs still had not been corrected in spite of the November 1978 notice.

In response to a January 1979 letter from the Office of Inspector General and because of its own reviews, ASCS headquarters directed all county committees to make a complete review of all NCAs. On April 9, 1979, ASCS reported that this review resulted in a reduction of about 1 million acres.

ASCS reported that in Idaho alone NCAs were reduced by over 192,000 acres. As pointed out earlier, our review indicates that county offices still have not corrected all NCAs.

CONCLUSIONS

Because some farm NCAs were overstated, the effectiveness of the 1978 wheat and feed grain set-aside programs in removing cropland from production was reduced. Unless ASCS takes action to reestablish all NCAs on recent planting history, the effectiveness of future set-aside programs will also be reduced.

The main factor contributing to the establishment of incorrect NCAs appeared to be the lack of planting histories on most farms. Without a planting history, the county office had very little information available to establish the correct NCAs if it believed that 1977 plantings were abnormal or if the producer appealed the NCA on the basis that 1977 plantings were abnormal. As a result, NCAs were often raised or lowered without adequate information and in some cases were adjusted contrary to ASCS instructions.

Although county offices had reestablished NCAs and made many adjustments for the 1979 set-aside programs in response to the ASCS notices, many NCAs in the counties we reviewed were still incorrect, which made the 1979 programs less effective than they could have been. Because of the importance of correct farm NCAs to currently authorized farm programs (current legislation runs through 1981) and the probability that this information will be needed for future programs, ASCS needs to reestablish NCAs based on recent planting histories, such as those for crop years 1977, 1978, and 1979, and update the histories annually.

RECOMMENDATIONS TO THE SECRETARY OF AGRICULTURE

We recommend that the Secretary of Agriculture require the Administrator, ASCS, to:

--Establish NCAs for all farms based on recent planting histories, such as those for 1977, 1978, and 1979, taking into consideration required set-aside acres, and ensure that all changes to established NCAs are properly supported and documented.

--Obtain annual planting data on all farms using producer certifications. In those cases where nonparticipating producers refuse to provide the data, use other means, such as making acreage determinations from aerial observation slides.

AGENCY COMMENTS AND OUR EVALUATION

In its October 26, 1979, comments (see app. III), USDA said it did not agree with our recommendation to establish NCAs on the basis of recent planting histories, such as those for 1977, 1978, and 1979. While USDA agrees that errors had been made in establishing and adjusting NCAs and that efforts to correct NCAs improperly established and/or adjusted had not been all that successful, it does not believe the errors identified should be considered a total indictment against the process used to establish the NCAs. USDA also said that establishing NCAs on 1977, 1978, and 1979 plantings would be inequitable to producers who participated in the 1978 and 1979 set-aside programs. These producers, according to USDA, would be penalized because their plantings for 1978 and 1979 were limited to their farms' NCAs while nonparticipating producers would be rewarded because their plantings were not limited.

USDA said that ASCS' Deputy Administrator, State and County Operations, proposed to meet with all ASCS State executive directors and district directors and charge them with the responsibility of seeing that county committees properly establish NCAs for 1980. USDA also said that each county would be required to report data on NCAs which could be analyzed at headquarters.

We recognize that the process used to establish NCAs for the 1978 programs was probably the most practical process to use at that time given the lack of planting data and the short time that was available to establish NCAs. However, we believe that the errors in establishing and adjusting NCAs, as identified by our review, the Office of the Inspector General audits, and ASCS' reviews, clearly demonstrate that the process had severe weaknesses. We do not believe that ASCS' proposed actions will succeed in correcting the erroneous NCAs. As pointed out on pages 51 and 52, ASCS has already instructed its county offices at least four times to reexamine and/or reestablish NCAs. However, the NCAs we identified as being incorrect or questionable were established NCAs where the counties had completed their reviews. Also, without a planting history, county offices have very little information available to establish the correct NCAs.

We question USDA's statement that establishing NCAs on 1977, 1978, and 1979 plantings would reward nonparticipating producers while penalizing participating producers. In order for nonparticipants to be rewarded by establishing NCAs on 1977, 1978, and 1979 plantings, one must assume that plantings on nonparticipating farms in 1978 and 1979 were above the farm's normal crop acreage while those in 1977 were not.

We are not aware of any data which shows that nonparticipating producers increased their plantings in 1978 and 1979 when compared with 1977 plantings. In a November 1979 meeting, USDA officials told us that no such data is available. Our review showed that participating producers' plantings in 1977 were often higher than previous years' plantings while some of the 1978 plantings were lower than the established NCAs which were based on 1977 plantings. It should also be pointed out that not all existing NCAs are equitable to the participating producers because many are overstated.

If USDA's assumption that nonparticipating producers had increased plantings in 1978 and 1979 when compared with 1977 plantings is correct, it raises serious questions about the overall effectiveness of voluntary set-aside programs. That is: How effective can the programs be when only a portion of the total producers cut back production while the rest increase production above normal crop acreages? If USDA had complete planting data on all farms as we are recommending, it would be able to determine if producers vary their total acreage plantings substantially from year to year.

USDA agreed with our recommendation to obtain and maintain annual planting histories on all farms but noted that the data could not be realized under the current programs. It said that procedures for 1978 and 1979 required all farm operators to report acreages if they desired to participate in the set-aside programs. Nonparticipating producers were encouraged to report acreages in both 1978 and 1979, but the response rate was low. USDA did say, however, that our recommendation could be carried out by having county offices make the acreage determinations from aerial observation slides but that to make this decision now would negate an ongoing ASCS study on compliance.

We did not intend that ASCS obtain planting data by making acreage determinations from aerial observation slides. We believe this would be too costly and unjustified. As stated on page 28, we question the need for county employees to determine acreages on all participating farms for compliance activities because certified acreages of most producers in the review counties were within acceptable tolerances and because costs would increase greatly if acreages were determined on all rather than on a sample of participating farms. To also make acreage determinations on nonparticipating farms would increase costs that much more. We do, however, recognize USDA's problem of collecting data from nonparticipating producers and have revised our recommendation to state that, in those cases where nonparticipating producers refuse to provide data, ASCS should use other means, such as making determinations from aerial observation slides.

FAILURE-TO-COMPLY-FULLY CONDITIONS AND PENALTY RATES FOR 1978

Reason for failure to comply fully	Penalty rate per acre
Deficient set-aside or diverted acres.	Target price x farm yield of program crop. (Where two or more program crops are involved, compute for the crop that results in the lowest penalty.)
Understated acreage of program crop.	One-half target price x farm yield of applicable program crop.
Overstated acreage of program crop.	One-fourth target price x farm yield of applicable program crop.
Excess NCA crop acreage.	One-half target price x farm yield of program crop. (Where two or more program crops are involved, compute for the crop that results in the lowest penalty.)
Unauthorized grazing of set-aside or diverted acreage. (Does not include brief, inadvertent grazing resulting from an open gate or break in a fence where animals are promptly removed and fence and gate are secured.)	Three x value of grazing as determined by the county committee.
Unauthorized harvesting of crops (including hay) from set-aside or diverted acreage.	Three x current market value of crops (including hay) harvested as determined by the county committee.

Reason for failure to comply fully	Penalty rate per acre
Failure to control weeds and wind or water erosion.	Three x estimated cost of satisfactorily carrying out control measures as established by county committee.
Overstated grazing and haying of wheat acres.	$1.50 x farm yield.

ASCS PROCEDURES FOR SELECTING

FARMS FOR ACREAGE VERIFICATIONS

1. Enter farms horizontally on ASCS-568--register of farm certifications--in the order the certification reports are received.

2. At any time before selections are made for random sampling, line through the farm check mark and skip that farm during the selection process when (a) the Federal Crop Insurance Corporation has furnished all required acreage data before assigning the farm for a visit, (b) the report is for a crop for which producer service was performed after the latest planting date for the crop and the crop acreage reported on the ASCS-578 is the same as the acreage determined on the ASCS-409, or (c) the farm is marked for a required check.

3. Select clearance number and sampling interval based on population. Also select starting number.

4. When enough farms are posted to the ASCS-568, make initial selection. Select consecutive farms equal to the clearance number only once to begin with. Thereafter, select at the sampling interval beginning with the starting number. Continue initial selection at the sampling interval as additional farms are posted to the ASCS-568 until all farms have been posted. Perform on-farm check of all operator reports selected.

5. If a discrepancy is found among the farms selected consecutively, select additional farms consecutively until the number of farms selected from the discrepancy equals the clearance number. If another discrepancy is found, repeat the selection process in this step. If no additional discrepancies are found, no additional selection is needed and this step is not repeated.

6. If a discrepancy is found among the farms selected at the sampling interval, start counting from that discrepancy. Count the farms selected at the sampling interval until you have enough farms to equal the clearance number. If no additional discrepancies are found, no additional selection is needed because of this discrepancy. If a second discrepancy is found before reaching the clearance number, start at the second discrepancy and repeat Step 5.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
P. O. BOX 2415 * * * WASHINGTON, D. C. 20013

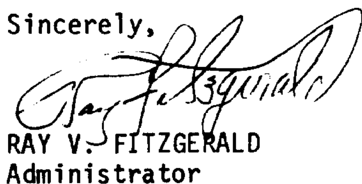
OCT 26 1979

Mr. Henry Eschwege
Director
Community and Economic Division
United States General Accounting
Office
Washington, D.C. 20548

Dear Mr. Eschwege:

Enclosed is our response to your recommendations set forth in the draft report to the Congress entitled "Effectiveness of Agriculture's Set-Aside Programs Can Be Improved."

Sincerely,



RAY V. FITZGERALD
Administrator

RESPONSE TO GAO REPORT - EFFECTIVENESS OF AGRICULTURE'S SET-ASIDE PROGRAM CAN BE IMPROVED

1 Overall Effectiveness of Set-Aside Programs

A set-aside program, even with very stringent rules (for example, requiring that the prior year planted acreage of the commodity be reduced in the current year by the amount of the set-aside) cannot be 100 percent effective without total participation in such set-aside. The establishment of the normal crop acreage (NCA) on farms was an attempt to help assure that the overall effectiveness of a set-aside program would be higher than under previous programs. Even with the problems that have been encountered in the establishment of farm NCA's, the overall effectiveness (relating to reduction in acreage) of the 1978 set-aside programs was considerably higher than set-aside programs during the early 1970's.

The program acreage (as reported by ESCS) of the fourteen designated crops, which made up the NCA, for 1977 was 279.3 million acres. Total set-aside/diversion acreage for the 1978 crops of wheat, feed grains (corn, barley and sorghum) and upland cotton was 17.0 million acres. The 1978 program acreage of designated NCA crops totaled 268.8 million acres, 10.5 million acres less than a year earlier. Program participation in the wheat sector was relatively high, at over 70 percent of program acreage, however, overall (wheat, feed grain and cotton) program participation

only involved 35 percent of the farms which consisted of 53 percent of the national NCA acreage for 1978. Even with 65 percent of the farms not participating in the 1978 set-aside programs, the effective ness of the set-aside was 62 percent. This compares to set-aside effectiveness during the early 1970's of 40 percent or lower with much higher levels of overall program participation.

Looking at wheat only for 1978, the set-aside, 8.4 million acres, was more than offset by a reduction in planted acreage of 9.0 million acres. This indicates a set-aside effectiveness of more than 100 percent. Although the set-aside effectiveness for feed grains was much less at 60 percent (1977 planted acreage - 111.2 million acres less 1978 planted acreage - 106.5 equals 4.7 million acres reduction in plantings divided by 8.3 million acres of set-aside/diversion equal 60 percent set-aside effectiveness), the overall effectiveness is considered very respectable considering less than 50 percent of the feed grain acreage was participating in the set-aside program.

II Failure to Fully Comply

A Authority

1 The Food and Agriculture Act of 1962 provided that performance rendered in good faith in reliance upon action or advise of an authorized representative of the Secretary may be accepted as meeting the requirements of any program under which price support is extended or payments are made to farmers.

2 Authority to make payments where there is less than full compliance with program provisions (for other than misaction or misinformation on the part of an ASCS employee) has been in effect since it was first authorized by the Food and Agriculture Act of 1965. Current legislative authority is contained in the Food and Agriculture Act of 1977 and reads as follows:

> "In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default."

3 In implementing the failure to comply fully authority under this act, we are using two key factors in determining "seriousness of the default"; namely, whether or not the producer made a good faith effort to comply fully and whether or not the producer rendered substantial performances.

B Good Faith Determinations

1 We recognize that we have some problem areas concerning our failure to fully comply provisions. However, we believe the failure to fully comply process as a whole

has value in that it provides relief to producers who find themselves in a position of suffering great loss of income for reasons beyond their control or intentions.

2 To be considered eligible to receive program benefits with appropriate payment reduction, a determination of good faith effort by the program participant must be made.

3 While we are attempting to attain complete uniformity in the application of the regulations, we have had certain problems in administering the provisions because each individual case has its own merits and needs individual consideration.

   a The Deputy Administrator, State and County Operations (DASCO) exercised his authority to delegate to State and county committees authority to rule on cases involving failure to fully comply within certain criteria.

   b In DASCO's delegation, it is recognized that every committeeperson does not view each situation uniformly (neither do different judges or juries). However, it has been our policy to attempt to achieve as much uniformity as possible.

4 Failure to fully comply cases may range from violations resulting from misaction or misinformation on the part of ASCS employees to violations resulting from producer error caused by honest mistakes, unconcern or indifference, to those caused by dishonest intent. We feel:

a The local county committee is in the best position to determine the facts in each case, make determinations of good faith on the part of the producer and make final determinations in cases of minor program defaults (as defined in procedure).

b The State committee or DASCO should make final determinations in cases where there are major violations.

5 Failure to fully comply and payment reduction is applicable for program defaults primarily in random selection counties (acreage certification counties) where the farm operator has no opportunity to adjust acreages to correct an error discovered as a result of a farm visit by ASCS. We believe that payment reductions are not only fair but necessary.

a The producer is not allowed to destroy crops to gain program compliance after the acreage is determined by ASCS.

b Payment reductions should be large enough to reinforce our goal of obtaining accurate acreage reports and maintain the integrity of the producer certification program.

C Action on GAO Recommendations

1 We do not believe it would be in the best interest of the program or more economical to grant relief only through the appeal process. This would only transfer

the workload and decision making process from one level to another higher level.

2 We will take another look at our payment reduction formulas for the 1980 crop to determine the level necessary to maintain the integrity of the producer certification program.

3 We are in the process of revising our failure to fully comply handbook for 1980 and we will take a look at strengthening the criteria on what constitutes good faith.

III <u>Compliance Certification and Farm Visits</u>

A <u>Documentation of Set-Aside and Followup Visits</u>

1 <u>Documentation at Certification</u>. Procedures for 1978 and 1979 (Handbook 2-CP) required farm operators to report the conservation practice carried out on the set-aside acreage designated when acreages were reported (certified) on ASCS-578. These procedures will continue in effect.

2 <u>Documentation of Farm Visit</u>. Procedures for 1978 and 1979 required the inspection of set-aside acreage to see that requirements on use of the set-aside acreage have been met. If discrepancies were found, they were documented in the remarks section of ASCS-578. We will strengthen these procedures by requiring documentation of each farm visit on ASCS-578 to show what our representative found on the set-aside acreage.

3 Followup Visit. Procedure for 1978 and 1979 required county committees to check ". . . some farms to assure that continuing program provisions are carried out . . ." and to check "any farms for which there is any reason to question the producer's compliance with any program provision." These procedures were provided to assure that followup visits be made to farms where discrepancies on set-aside acreages were noted and where requirements had not been carried out at the time of our initial farm visit because the time limit for carrying out such requirements had not passed. Although these procedures did not specifically refer to set-aside acreage checks, we felt they were adequate to maintain program integrity. We will strengthen our procedures to specify requirements for followup visits to check compliance with continuing set-aside requirements and to further check any problems or discrepancies noted.

B Crops on Set-Aside

1 Small Grain on Set-Aside Acres. We believe that small grain should be allowed as cover on set-aside acres as it is considered a good established farming practice.

a In some areas of the country small grains are the most practical cover crops that can effectively be established year in and year out.

b Small grain is usually planted in the fall or early spring, clipped to prevent seed formation in early summer, and left standing until the land is again prepared to seed small grain. This provides a cover crop that is effective in protecting the set-aside acres from wind and water erosion throughout the calendar year.

c We also feel that small grain cover crops are a good wildlife practice.

2 Better Checking of Set-Aside Acreage When Small Grain is Used for Cover. Subparagraph III A 3 of this reply states that procedures for requiring followup visits will be strengthened. Specific procedures will be provided to assure followup visits to determine that small grain on set-aside acreage is clipped before seed formation. These procedures will also deal with followup visits to determine that weeds and rodents are controlled, that acreage is not grazed, hayed, or harvested, and that any other requirement is timely carried out regardless of the cover crop being used.

C Compliance

1 Study of Compliance Methods Underway. For the 1979 compliance season, counties were given the option subject to State committee approval, to use of the following methods for determining acreages.

a Option 1. Measure all farms in the county for which program provisions require acreage determinations by use of aerial observation.

b Option 2. Measure all farms in the county for which program provisions require acreage determinations by use of ground measurements.

c Option 3. Measure randomly selected farms by use of aerial observation.

d Option 4. Measure randomly selected farms by use of ground measurements.

Before beginning 1979 compliance, the States reported that 676 counties would use option 1; 120 counties, option 2; 1,067 counties, option 3; and 1,136 counties, option 4. When compliance activities were substantially completed for 1979, a special report was requested from about seven percent of the counties in each category. Each State was also required to submit a summary report of the compliance work in their State. These reports have been received and we are in the process of compiling, analyzing, and evaluating this data. A special study has been completed on the efficiency and cost effectiveness of special planimeters. This equipment study reported will also be used.

The purpose of this study is two-fold. First, we expect to determine the long-range policy on the methods for determining acreages. Second, we expect to determine the policy and procedural changes needed for the 1980 compliance

activity taking into consideration the long-term policy direction. Recommendations developed from this study and decisions made by top management will consider:

(1) cost effectiveness of the several methods,

(2) efficiency and timeliness of getting the compliance work done by each method,

(3) farmer acceptance of the different methods,

(4) farmer and general public confidence in the administration of our programs because of the methods used,

(5) the findings and recommendations of your report, and

(6) the effect of certain limitations such as availability of trainable personnel, availability of necessary equipment, personnel ceiling, and travel money limitations.

Regardless of the outcome of our study, a stricter compliance program can be realized only with adequate and effective training and followup. We plan to hold area training meetings to train State compliance specialists, State compliance assistants, and district directors. They, in turn, will train county personnel. We also plan to strengthen the requirements for State checking of county work. We further plan followup visits to State and county offices by headquarters personnel to determine the effectiveness of the training and to assure the procedures are being complied with. The extent to which these goals are met depends upon the availability of travel funds.

2 <u>Obtaining and Maintaining Annual Planting Histories on All Farms</u>. Procedures for 1978 and 1979 required all farm operators to report acreages planted. This requirement is nearly impossible to realize under our current programs. In 1978, approximately 51 percent of the farms with an NCA signed an intention to participate in the set-aside programs. In 1979, only 38 percent (approximately) signed up. Those producers that did not sign up do not have any incentive to report their acreages since they are not entitled to any program benefits. Because of the nature of our current programs, unless the farm is a participating farm there are no levers we can use to enforce the reporting requirements. We do encourage reporting and emphasize the importance that reporting has on keeping records up to date and on participation in the program in future years. Even though many producers do not report in some areas of the country, planted acreage histories could be determined in those counties that made slides of the entire county under aerial observation. The information is available on the slides and needs only to be identified and computed on all farms not measured. ASCS does not at this time determine acreage for farms for which there is no program requirements to do so. If your recommendation were to be adopted and carried out by ASCS, the conclusion of our study referred to in sub-paragraph III C 1 is predetermined. Thus, we would use

aerial observation in all counties to get complete slide coverage of the county so we could measure farms requiring measurement, verify farms reporting but not requiring measurement, and measure farms that do not report. However, rather than prejudging the results of the study, we will wait until it is completed before changing our current policies. We agree regardless of the compliance method used, that we need to obtain and maintain complete historical crop records on all farms.

D Offsetting Compliance Checks

1 Efforts have been made at the national level to make State and county offices fully aware of the offsetting compliance requirements.

2 Offsetting compliance applies only to farm owners and farm operators that own and/or operate two or more farms.

3 In checking offsetting compliance, all we need to know:

a Is the owner or operator of a participating farm the owner or operator of another farm?

b Was a set-aside crop planted on the other farm? If yes, are NCA crop plantings within the NCA established for the farm in question?

4 The first notice to States and counties concerning offsetting compliance provisions was on 10-11-77. In addition to the handbook instructions issued on 2-8-78, there were three other notices issued between 1-12-78 and 6-29-78 concerning the offsetting compliance provisions and the need to check participating owners and operators who own

and/or operate more than one farm, within the county as well as across county lines.

5 Our compliance procedure specifically states that non-participating farms involved in offsetting compliance as well as all participating farms are subject to checks.

6 A form has been designed at the national level to use in checking offsetting compliance across county lines. The form with instructions will be incorporated in the Feed Grains, Rice, and Upland Cotton and Wheat Program Handbook (5-PA) for 1980.

IV <u>Normal Crop Acreage</u>

We agree that some farm NCA's have been established outside of program procedure; however, overall the NCA's as established are considered sound and reasonable. While this does not mean that the erroneously established NCA's should not be identified and corrected, the fact that all NCA's as established may not be within our guidelines should not be considered a total indictment against the process used to establish current NCA's.

A The Food and Agriculture Act of 1977 was signed into law on 9-29-77. It not only provided new legislation for the 1978 through 1981 crops of wheat, feed grains, upland cotton and rice, it also provided for retroactive application of disaster payments to the 1977 crops of wheat and feed grains. Because of the time limitations put on us in developing and implementing the operating procedure required by the new act, and the budget restraints limiting personnel and travel at both the National and State levels, we were not able to provide the training and supervision necessary to do the kind of job we would like to

have done from the outset. We relied on written notices and handbook procedure to provide the instructions and guidelines to initiate a new concept (NCA's) which we realized was not only new but somewhat complicated. We also realize that some States and counties did not follow our instructions as closely as we expected them to; therefore, NCA's for some farms were not established in accordance with procedure.

1 We admit that errors have been made in the establishment and adjustment of NCA's, however, we feel that county committees did a pretty good job of setting most NCA's.

2 Based on the GAO report, OIG audits and our review, we have concluded that our previous efforts to correct NCA's improperly established and/or adjusted have not been entirely successful. We realize there are still problem areas with some individual farm adjustments but we feel that the majority of the problems are due to a lack of documentation and justification for a number of adjustments.

B GAO Recommendations

1 We do not agree with GAO's recommendation to reestablish NCA's for all wheat and feed grain farms based on 1977, 1978, and 1979 planting history. We do not believe this would provide equity for producers who participated in the set-aside programs for 1978 and/or 1979 and limited their planting of NCA crops to the NCA. Nonparticipating farms would be rewarded for not participating while participating farms would most likely be penalized.

2 The Deputy Administrator for State and County Operations proposes to meet with all State Executive Directos (SED's) and District Directors (DD's) to express his concern and displeasure for the NCA establishment process thus far. He will also charge them with the responsibility of seeing that county committees follow established procedures in setting the NCA's for 1980.

3 A report will be required from each county to be analyzed at the national level. The report will require the number of farms and total of:

a 1977 acres of NCA crops reported in 1977.

b Late-filed 1977 acres of NCA crops (reports filed after 12-31-77).

c NCA increase based on 1975-1976 acres.

d NCA decrease based on 1977 being too high.

e NCA adjustments based on 1977 contractural agreements.

f NCA adjustments based on changes in farming practices since 1977.

g Total reserve acres used.

h Net NCA adjustments based on errors.

i For odd-even counties, the 1976 acres of NCA crops on odd-even farms.

j NCA adjustments (where applicable) for permanent changes from skip row cotton to solid cotton.

k 1979 final NCA for the county.

4 We plan to analyze this date to zero in on the problem States and/or counties to correct the NCA's.

(022400)

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