

## § 652.2

*Conservation practice* means a specified treatment, such as a structural or vegetative practice, or a land management practice, that is planned and applied according to NRCS standards and specifications.

*Contract* means the same as that term is defined in the Federal Grants and Cooperative Agreement Act, 31 U.S.C. 6301 *et seq.*

*Contribution agreement* means the acquisition of technical services entered into under the authority of 7 U.S.C. 6962a.

*Cooperative agreement* means the same as that term is defined in the Federal Grants and Cooperative Agreement Act, 31 U.S.C. 6301 *et seq.*

*Department* means the Natural Resources Conservation Service, the Farm Service Agency, or any other agency or instrumentality of the United States Department of Agriculture that is assigned responsibility for all or a part of a conservation program subject to this part.

*Entity* means a corporation, joint stock company, association, limited partnership, limited liability partnership, limited liability company, non-profit organization, a member of a joint venture, or a member of a similar organization.

*Program participant or participant* means a person who is eligible to receive technical or financial assistance under a conservation program covered by this rule.

*Public agency* means a unit or subdivision of Federal, State, local, or Tribal government, other than the Department.

*Recommending organization* means a professional organization, association, licensing board or similar organization with which NRCS has entered into an agreement to recommend qualified individuals for NRCS certification as technical service providers for specific technical services.

*Secretary* means the Secretary of the United States Department of Agriculture.

*State Conservationist* means the NRCS employee authorized to direct and supervise NRCS activities in a State, the Caribbean Area, or the Pacific Basin Area.

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*Technical service* means the technical assistance provided by technical service providers, including conservation planning, and/or the design, layout, and installation of approved conservation practices.

*Technical service provider* means an individual, entity, or public agency certified by the State Conservationist and placed on the approved list to provide technical services to program participants or to the Department.

### § 652.2 Applicability.

The regulations in this part set forth the policies, procedures, and requirements related to delivery of technical assistance by individuals and entities other than the Department, hereinafter referred to as technical service providers.

### § 652.3 Administration.

(a) As provided in this part, the Department will provide technical assistance to program participants directly, or at the option of the program participant, through a technical service provider in accordance with the requirements of this part.

(b) The Chief, Natural Resources Conservation Service (NRCS) will direct and supervise the administration of the regulations in this part.

(c) NRCS will:

(1) Provide overall leadership and management for the development and administration of a technical service provider process;

(2) Consult with the Farm Service Agency and other appropriate agencies and entities concerning the availability and utilization of technical service providers and the implementation of technical service;

(3) Establish policies, procedures, guidance, and criteria for the certification, recertification, decertification, certification renewal, and implementation of the use of technical service providers;

(4) Certify, decertify, and recertify technical service providers as well as renew certification for technical service providers.

(5) Encourage development and availability of training opportunities for individuals interested in becoming technical service providers;

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(6) Track payment and accomplishment data related to technical services delivery; and

(7) Provide quality assurance for technical services provided by technical service providers.

(d) The Department will not make payments under a program contract or agreement, a contract, contribution agreement, or cooperative agreement for technical services provided by a technical service provider unless the technical service provider is certified by NRCS and is identified on the approved list.

(e) The Department will evaluate the terms and conditions of existing agreements with technical service providers to ensure that they are consistent with this part.

### § 652.4 Technical service standards.

(a) All technical services provided by technical service providers must meet USDA standards and specifications as set forth in Departmental manuals, handbooks, guides, and other references for soils mapping and natural resources information, conservation planning, conservation practice application, and other areas of technical assistance.

(b) The Department must approve all new technologies and innovative practices, including applicable standards and specifications, prior to a technical service provider initiating technical services for those technologies and practices.

(c) Pursuant to any contract or agreement with NRCS or with the program participant, the technical service provider must warrant in writing that the particular technical service provided:

(1) Complies with all applicable Federal, State, Tribal, and local laws and requirements;

(2) Meets applicable Department standards, specifications, and program requirements;

(3) Is consistent with the particular conservation program goals and objectives for which the program agreement or contract was entered into by the Department and the program participant; and

(4) Incorporates, where appropriate, low-cost alternatives that would ad-

dress the resource issues and meet the objectives of both the program and program participants for which assistance is provided.

(d) Technical service providers, including entities and public agencies, must assume all legal responsibility for the technical services provided. Technical service providers, including entities and public agencies, must indemnify and hold the Department and the program participant harmless for any costs, damages, claims, liabilities, and judgments arising from past, present, and future negligent or wrongful acts or omissions of the technical service provider in connection with the technical service provided.

(e) The Department will not be in breach of any program contract or agreement if it fails to implement conservation plans or practices or make payment for conservation plans or practices resulting from technical services that do not meet USDA standards and specifications or are not consistent with program requirements.

(f) The program participant is responsible for complying with the terms and conditions of the program contract or agreement, which includes meeting USDA technical standards and specifications for any technical services procured by the participant or obtained in accordance with this part.

(g) The technical service provider shall report in the NRCS conservation accomplishment tracking system the appropriate data elements associated with the technical services provided to the Department or program participant.

### § 652.5 Program participant acquisition of technical services.

(a) Program participants may obtain technical assistance directly from the Department or from a certified technical service provider.

(b) To acquire technical assistance directly from the Department, program participants should contact their local USDA Service Center.

(c) To acquire technical services from a technical service provider, program participants must:

(1) Comply with the program agreement when acquiring technical services; and