

Flood Insurance Program and will include floodproofing and other flood protection measures as appropriate.

[44 FR 44462, July 30, 1979]

## PART 651 [RESERVED]

### PART 652—TECHNICAL SERVICE PROVIDER ASSISTANCE

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AUTHORITY: 16 U.S.C. 3842.

SOURCE: 69 FR 69472, Nov. 29, 2004, unless otherwise noted.

#### Subpart A—General Provisions

SOURCE: 75 FR 6845, Feb. 12, 2010, unless otherwise noted.

##### § 652.1 Applicability.

(a) The regulations in this part set forth the policies, procedures, and re-

quirements related to delivery of technical assistance by individuals and entities other than the Department, hereinafter referred to as technical service providers (TSPs). The Food Security Act of 1985, requires the Secretary to deliver technical assistance to eligible participants for implementation of its Title XII Programs and the conservation activities in the Agricultural Management Assistance Program, 7 U.S.C. 1524, directly, through an agreement with a third party provider, or at the option of the producer through payment to the producer for an approved third party provider. This regulation defines how a participant acquires technical service from a third party TSP, sets forth a certification and decertification process, and establishes a method to make payments for technical services.

(b) TSPs may provide technical services to eligible participants in conservation planning, education and outreach, and assistance with design and implementation of conservation practices applied on private land, Indian land, or where allowed by conservation program rules on public land.

(c) The Chief may implement this part in any of the 50 States, District of Columbia, Commonwealth of Puerto Rico, Guam, Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

##### § 652.2 Definitions.

The following definitions apply to this part and all documents issued in accordance with this part, unless specified otherwise:

*Approved list* means the list of individuals, private sector entities, or public agencies certified by the Natural Resources Conservation Service (NRCS) to provide technical services to a participant.

*Certification* means the action taken by NRCS to approve:

(1) An individual as meeting the minimum NRCS criteria for providing technical service for conservation planning or a specific conservation practice or system.

(2) An entity or public agency having an employee or employees that meet

the minimum NRCS criteria for providing technical service for conservation planning or a specific conservation practice or system.

*Chief* means the Chief of NRCS or designee.

*Conservation activity plan* means the conservation practices associated with plan development as authorized under the Food, Conservation, and Energy Act of 2008 (2008 Act).

*Conservation plan* means a record of the client's decisions and supporting information for treatment of a land unit or water as a result of the planning process that meets the Field Office Technical Guide quality criteria for each natural resource (soil, water, air, plants, and animals), and takes into account economic and social considerations. The plan describes the schedule of operations and activities needed to solve identified natural resource problems and takes advantage of opportunities at a conservation management system level. The needs of the client, the resources, and Federal, State, and local requirements will be met.

*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.

*Contribution agreement* means the instrument used to acquire technical services under the authority of 7 U.S.C. 6962a.

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

*Department* means the NRCS, the Farm Service Agency, or any other agency or instrumentality of the Department of Agriculture (USDA) that is assigned responsibility for all or a part of a conservation program subject to this part.

*Eligible participant* means a producer, landowner, or entity that is participating in, or seeking to participate in, a conservation program covered by this rule in which the producer, landowner, or entity is otherwise eligible to participate.

*Entity* means a corporation, joint stock company, association, coopera-

tive, limited partnership, limited liability partnership, limited liability company, nonprofit organization, a member of a joint venture, or a member of a similar organization.

*Indian land* means all lands held in trust by the United States for individual Indians or tribes, or all lands, titles to which are held by individual Indians or tribes, subject to Federal restrictions against alienation or encumbrance, or all lands which are subject to the rights of use, occupancy, and benefit of certain tribes. The term Indian land also includes land for which the title is held in fee status by Indian tribes and the United States Government-owned land under the Bureau of Indian Affairs jurisdiction.

*Procurement contract* means the same as the term "contract" means under the Federal Grants and Cooperative Agreement Act, 31 U.S.C. 6301 et seq.

*Program contract* means the document that specifies the rights and obligations of any individual or entity that has been accepted for participation in a program authorized under Title XII of the Food Security Act of 1985, or the Agricultural Management Assistance Program, authorized under 7 U.S.C. 1524.

*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 TSPs for specific technical services.

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

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

*Technical service* means the technical assistance provided by TSPs, including conservation planning; education and outreach; and the design, installation, and check-out of approved conservation practices.

*Technical service contract* means a document that specifies the rights and obligations of an eligible participant to obtain technical services from a TSP

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where the eligible participant will not receive financial assistance for the implementation of the practice paid for in the technical service contract through participation in a Title XII conservation program or the Agricultural Management Assistance Program, 7 U.S.C. 1524.

*Technical service provider* means an individual, entity, Indian Tribe, or public agency either:

(1) Certified by NRCS and placed on the approved list to provide technical services to participants; or

(2) Selected by the Department to assist the Department in the implementation of conservation programs covered by this part through a procurement contract, contribution agreement, or cooperative agreement with the Department.

*Written agreement* means the document that specifies the rights and obligations of any individual or entity that has been authorized by NRCS to receive conservation planning assistance without having a program contract.

[75 FR 6845, Feb. 12, 2010, as amended at 75 FR 48273, Aug. 10, 2010]

#### § 652.3 Administration.

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

(b) The Chief of 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 TSP process;

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

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

(4) Provide training to ensure that persons meet the certification criteria for certain technical expertise when there is a lack of training resources or market outside the agency for such

technical expertise. However, any training provided by the Department will be limited to training about Department regulations, policies, procedures, processes, and business and technical tools unique to NRCS; and

(5) Establish a process for verifying information provided to NRCS under this part.

(d) The Department will not make payments under a program contract or written agreement with a participant for technical services provided by a TSP unless the TSP is certified by NRCS for the services provided and is identified on the approved list.

(e) The Department may enter into procurement contracts, contribution agreements, cooperative agreements, or other appropriate instruments to assist the Department in providing technical assistance when implementing conservation programs covered by this part. The Department will ensure that such instruments contain the qualification and performance criteria necessary to ensure quality implementation of the goals and objectives of these conservation programs; therefore, when the Department obtains assistance from a TSP in this manner, the TSP is authorized to provide technical services and receive payment even if such TSP is not certified in accordance with subpart B, nor identified on the approved list.

(f) When a participant acquires technical services from a TSP, the Department is not a party to the agreement between the participant and the TSP. To ensure that quality implementation of the goals and objectives of the conservation programs are met, the TSP must be certified by NRCS in accordance with subpart B of this part and identified on the approved list. Upon request of NRCS, TSPs are required to submit copies of all transcripts, licensing, and certification documentation.

#### § 652.4 Technical service standards.

(a) All technical services provided by TSPs 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