

with a credit of 50 percent of the technical service savings to apply toward their cost of practice installation. Specifically, the program participant would receive 50 percent of the cost savings of the difference between the not-to-exceed rate and the actual billing for the technical services provided. For example, if the not-to-exceed rate for technical services for a conservation practice is \$10,000, and the participant chooses a provider whose service costs \$9,000, the participant has earned a \$500 credit toward the cost of practice installation. Assuming the participant's application has been selected for funding, the practice to be installed cost \$20,000, and the cost share requirement is 50 percent, then the participant's cost share of the practice would be \$9,500. Using this incentive system, both the participant and the Federal government enjoy a net savings, and the end result is a more efficient and cost-effective process.

Under no circumstances may the earning of credits by a participant result in the Department exceeding any statutory limitation on cost-sharing or payments for a particular program. Additionally, the earning of credits has no bearing on whether an application for financial assistance (installation of conservation practices) is selected. Consequently, the credit system will not result in a violation of any statutory prohibition against "bidding down," (*i.e.*, using cost as the deciding factor when choosing among applications that are expected to yield comparable environmental benefits).

NRCS believes that this dynamic approach to setting not-to-exceed payment rates and providing incentives to program participants to choose competitively priced services will help ensure that its payment rates do not lag behind the development of technological efficiencies that decrease the time and cost associated with the delivery of technical services.

NRCS is interested in receiving comments on any aspect of payment rates included in this rulemaking amendment or any other items regarding payment rates.

Use of Subcontractors By Technical Service Providers

Technical service providers may not always have the expertise needed to carry out all aspects of delivering technical services for conservation practices or for conservation planning. Therefore, in order to make efficient use of the marketplace, technical service providers contracted to carry out technical services may use the services of subcontractors who are certified by

NRCS for the specific technical services or expertise needed. The contracted technical service provider remains responsible for the overall technical services provided. In addition, subcontracted technical service providers are responsible for providing services in accordance with the terms of their Certification Agreement. Technical service providers will not be reimbursed if they subcontract with entities that are not certified providers for the particular technical services which they are providing.

National Certification

The Department is using the opportunity presented by this rulemaking to clarify its policy regarding the certification process set forth in the interim final rule at 7 CFR part 652. The technical service provider certification process is a national certification process with uniform criteria and requirements; *see* 7 CFR part 652.21. Applicants can apply for certification to the Chief, NRCS, through the agency's TechReg Web site using one application, and listing each State for which the applicant wishes to be considered for certification. Applicants must meet the certification criteria for each category of technical services in which they desire certification.

Applicants are required to self-certify that they meet all applicable State licensing or similar requirements for those technical services where certification is sought for each State. Applicants for certification must demonstrate, through documentation of training or experience, familiarity with NRCS guidelines, criteria, standards, and specifications as set forth in the applicable NRCS manuals, handbooks, field office technical guides, and supplements thereto, for planning and applying specific conservation practices and management systems for which certification is sought. In addition to National and State NRCS guidelines and criteria, applicants must also be familiar with any unique criteria required at the county level for particular practices before providing services in a particular county. By signing a Certification Agreement, applicants are acknowledging that they are aware of these local criteria, and agree to familiarize themselves with any such criteria by contacting the appropriate NRCS State official before providing technical services. In order to be considered for certification, the applicant must submit a completed Certification Application to NRCS electronically through the TechReg Web site. The Department encourages applicants and certified technical

service providers to participate in NRCS sponsored trainings at the State and local level in order to gain familiarity with NRCS local criteria and guidelines, as well as to stay current on new developments in agency policy related to the provision of technical services.

NRCS is amending the definition of technical service provider to reflect national certification. NRCS is also revising the dates from March 1, 2003, to June 1, 2003, for submitting an application regarding conditional certifications in section 652.21(f) and (g).

Request for Comments

NRCS is extending the comment period for the Technical Service Provider Assistance Interim Final Rule published on November 21, 2002, Vol. 67, No. 225, for 30 days. Comments must be received by the date indicated at the beginning of this amendment. Comments on this amendment must be received within 90 days after publication in the **Federal Register** in accordance with the date indicated at the beginning of this amendment.

NRCS is interested in receiving additional feedback from the public on the following issues.

Whether governing board members of a public agency should or should not be engaged as private consultant technical service providers or as technical service providers under the auspices of that public agency.

Whether or not there should be a maximum number of uncertified employees serving under the direction of a certified individual within a private-sector entity, or a public agency where that certified individual warrants the work of those uncertified employees and what that maximum number should be.

Regulatory Certifications

Executive Order 12866

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this interim final rule is a significant regulatory action, and has been reviewed by the Office of Management and Budget (OMB). Pursuant to section 6(a)(3) of Executive Order 12866, NRCS conducted an economic analysis of the potential impacts associated with the interim final rule for Technical Service Provider Assistance published in the **Federal Register** on November 21, 2002, and included the analysis as part of a Regulatory Impact Analysis document prepared for that interim final rule. The provisions of this interim final rule do not alter the analysis that was originally