

prepared. A copy of the analysis is available upon request from Gary Gross, Resource Conservationist, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013–2890; or by e-mail to [gary.gross@usda.gov](mailto:gary.gross@usda.gov), Attention: Technical Service Provider Assistance—Economic Analysis; or at the following Web address: <http://www.nrcs.usda.gov>.

#### *Executive Order 12988*

This interim final rule has been reviewed in accordance with Executive Order 12988. The provisions of this interim final rule are not retroactive. The U.S. Department of Agriculture (USDA) has not identified any State or local laws that are in conflict with this regulation, or that would impede full implementation of this rule. In the event that such conflict is identified, the provisions of this interim final rule preempt State and local laws to the extent that such laws are inconsistent with this rule.

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act is not applicable to this rule because the Secretary of Agriculture is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

#### *National Environmental Policy Act*

The regulations promulgated by this rule do not authorize any action that may negatively affect the human environment. Accordingly, an analysis of impacts under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, has not been performed. This interim final rule will help implement new and existing USDA conservation programs, which are subject to the environmental analyses pursuant to the National Environmental Policy Act.

#### *Paperwork Reduction Act*

Section 2702 of the Farm Security and Rural Investment Act of 2002 requires that the promulgation of regulations and the administration of title II of said Act, which authorizes the use of certified technical service providers, be carried out without regard to chapter 35 of title 44 of the United States Code (commonly known as the Paperwork Reduction Act). Accordingly, these regulations, related forms, and other information collection activities needed to establish payment rates under these regulations, are not subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

NRCS is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require government agencies, in general, to provide the public with the option of submitting information or transacting business electronically to the maximum extent possible, and to NRCS in particular. The forms and other information collection activities required for participation in technical services delivery under the technical service provider assistance rule, amended by this rule, are not fully implemented for the public to conduct business with NRCS electronically. However, the required standard forms discussed in this rule will be available electronically through the USDA eForms Web site, [atwww.sc.egov.usda.gov](http://atwww.sc.egov.usda.gov), for downloading. The regulation will be available at the NRCS home page at [www.nrcs.usda.gov](http://www.nrcs.usda.gov).

#### *Unfunded Mandates Reform Act of 1995*

Pursuant to title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, NRCS assessed the effects of this rulemaking action on State, local, and tribal governments, and the public. This action does not compel the expenditure of \$100 million or more by any State, local, or tribal governments, or anyone in the private sector; therefore, a statement under section 202 of the Unfunded Mandates Reform Act of 1995 is not required.

#### *Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994*

Pursuant to section 304 of the Department of Agriculture Reorganization Act of 1994, Pub. L. 104–354, USDA classified this interim final rule as not major.

#### *Civil Rights Impact Analysis*

A Civil Rights Impact Analysis was completed for the interim final rule for Technical Service Provider Assistance published in the **Federal Register** on November 21, 2002. The provisions of this interim final rule do not alter analysis that was originally prepared. The review revealed no factors indicating any disproportionate adverse civil rights impacts for participants in NRCS programs and services who are minorities, women, or persons with disabilities. A copy of this analysis is available upon request from Gary Gross, Resource Conservationist, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013–2890; or by e-mail to [gary.gross@usda.gov](mailto:gary.gross@usda.gov),

Attention: Technical Service Provider Assistance—Civil Rights Impact Analysis; or at the following Web address: <http://www.nrcs.usda.gov>.

#### **List of Subjects in 7 CFR Part 652**

Natural Resources Conservation Service, Soil conservation, Technical assistance, Water resources.

For the reasons stated in the preamble, the Natural Resources Conservation Service hereby amends title 7 of the Code of Federal Regulations as set forth below:

Accordingly, title 7 of the Code of Federal Regulations part 652 is amended by adding a new paragraph.

#### **PART 652—TECHNICAL SERVICE PROVIDERCC ASSISTANCE**

1. The authority citation for part 652 continues to read as follows:

**Authority:** 16 U.S.C. 3842.

2. Section 652.5 is amended by revising paragraph (d) and adding a new paragraph (j) to read as follows:

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

\* \* \* \* \*

(d) To obtain payment for technical services, the program participant must submit to the Department an invoice, supporting documentation, and a request for payment. The Department may pay a program participant for technical services provided by a technical service provider hired by the program participant through a reimbursement payment made directly to the program participant; or upon receipt of an assignment of payment from the program participant, a payment made directly to the technical service provider.

\* \* \* \* \*

(j) Payment rates.

(1) NRCS will establish payment rates by calculating not-to-exceed rates for technical services. NRCS will calculate not-to-exceed rates using price data that it may acquire through various sources that it deems reliable.

(2) Establishing not-to-exceed payment rates.

(i) NRCS will analyze the pricing information using a standardized methodology.

(ii) Not-to-exceed payment rates will be established nationally on a State by State basis for categories of technical services.

(iii) NRCS will coordinate payment rates between adjacent States to ensure consistency where similar resource conditions and agricultural operations exist. Payment rates may vary to some