

# Rules and Regulations

Federal Register

Vol. 68, No. 131

Wednesday, July 9, 2003

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

#### 7 CFR Part 652

#### Technical Service Provider Assistance

**AGENCY:** Natural Resources Conservation Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rulemaking amends the technical service provider assistance interim final rule published in the **Federal Register** on November 21, 2002, by providing a limited exception to the certification and payment requirements when the Department is partnering with State, local, or tribal governments to carry out its duties to provide technical services.

**DATES:** Effective date: July 9, 2003. Comments on this amendment must be received by August 8, 2003.

**ADDRESSES:** Send comments by mail to Melissa Hammond, Technical Service Provider Coordinator, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013, or by e-mail to: [melissa.hammond@usda.gov](mailto:melissa.hammond@usda.gov), Attention: Technical Service Provider Assistance. This interim final rule may also be accessed via the Internet through the NRCS homepage at <http://www.nrcs.usda.gov>, by selecting Farm Bill 2002.

**FOR FURTHER INFORMATION CONTACT:** Melissa Hammond, Technical Service Provider Coordinator, Strategic Natural Resource Issues Staff, NRCS, P.O. Box 2890, Washington, DC 20013-2890; telephone: (202) 720-6731; fax: (202) 720-3052; submit e-mail to: [gary.gross@usda.gov](mailto:gary.gross@usda.gov), Attention: Technical Service Provider Assistance.

#### SUPPLEMENTARY INFORMATION:

#### Discussion

This amendment is effective on the date published in the **Federal Register** in order to address the technical service delivery needs this fiscal year. The Department follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of Departmental regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. The Department has determined that, under 5 U.S.C., 553(b)(B) good cause exists for dispensing with the notice and public comment procedures for this rule. Good cause exists because this interim final rule preserves historical means of working with governmental entities necessary to carry out technical services. Not providing for traditional relationships in carrying out technical services will result in delay in carrying out technical services and therefore implementation of the Farm Bill conservation programs.

It is not practical or in the public interest to delay implementation of the technical service provider process established as a result of the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill). The 2002 Farm Bill authorized several conservation programs and provided substantial funding to implement the programs. In order to accomplish implementation, significant technical services from the private sector and public agencies are needed. Without moving expeditiously to engage public agencies in addressing this workload this fiscal year, the technical assistance funds will not be available for program participants to plan and apply needed conservation practices during the current fiscal year. This exception facilitates this critical implementation.

This limited exception does not reflect a change in the Department's commitment to developing a private sector technical service provider industry. The Department remains committed to developing private sector technical service providers. Also, this exception does not lower the technical standards public agencies must meet in order to be qualified to provide technical services through contribution

agreements. Through this amendment, the Department is reaffirming its commitment to the certification process as set forth in 7 CFR part 652 while at the same time recognizing the long-standing, unique, and productive relationships the Department has had with those agencies in delivering technical services by providing for an exception to the certification process under certain limited circumstances and conditions.

This limited exception does not change the qualifications or technical requirements for providing technical services. The only change is the method used to recognize those qualifications. Public agencies have qualified technical staff to provide technical services. The limited exception in the rule allows for the efficient and effective recognition of those qualifications.

All comments submitted during this rulemaking will be considered during promulgation of a final rule.

Section 1242 of the Food Security Act, as amended by the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill), require that the Secretary establish a system for approving individuals and entities to provide technical assistance to implement conservation programs under Title XII of the Food Security Act of 1985.

At 7 CFR part 652, the Department set forth a process to approve individuals, private-sector entities, and public agencies as technical service providers through a technical service provider certification process. In this rulemaking, the Department is amending 7 CFR part 652 to provide for a limited exception to the certification and payment requirements when the Department is partnering with State, local, or tribal governments to assist the Department in carrying out its duties to provide technical services. This limited exception is necessary in order to continue the Department's long-standing, unique, and productive relationship with conservation districts and other governmental entities in the provision of technical assistance. This exception is only applicable when the Department is partnering with a State, local, or tribal government in carrying out the Department's duties to provide technical services. When a governmental entity seeks to compete for procurement contracts, or cooperative agreements with the