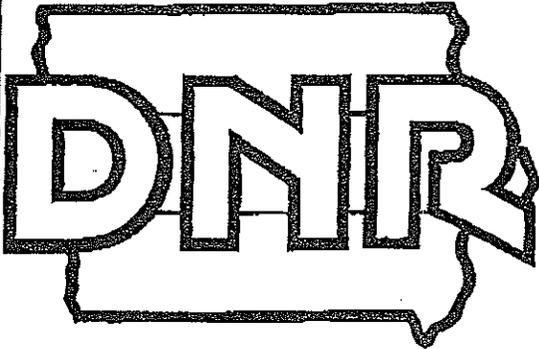


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Iowa Department of Natural Resources
Wallace State Office Building/4th Floor
502 East 9th Street
Des Moines, Iowa 50319-0034

FAX SHEET

DATE: 3/17/09

DELIVER TO: Technical Service PHONE: 202-720-4630
Provider Team

FAX NUMBER: 202-720-5334

FROM: Iowa Department of Natural Resources
% Kelly Smith

NUMBER OF PAGES (including this cover sheet): 5

MESSAGE: Iowa DNR TSPA Interim Final Rule Comments

Our Fax Number is: 515/281-6794
Any problems with transmission call: 515/281-5918



**STATE OF IOWA**

CHESTER J. CULVER, GOVERNOR
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
RICHARD A. LEOPOLD, DIRECTOR

March 16, 2009

Technical Service Provider Team
Natural Resources Conservation Service
Technical Service Provider Assistance Comments
PO Box 2890, Room 5234-S
Washington, DC 20013

RE: Docket Number NRCS-IFR08011, Technical Service Provider Assistance Interim Rule

Dear Sir or Madam:

The Iowa Department of Natural Resources (IDNR) appreciates the opportunity to comment on the interim rule affecting Technical Service Provider Assistance (TSPA) as provided by the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill).

General Comments:

We wish to complement USDA-NRCS on including the State fish and wildlife agencies in this provision and for acknowledging the value that State agencies bring to the table with respect to expertise on fish and wildlife issues. We also wish to complement USDA-NRCS on the foresight to allow the flexibility in the type of agreement that can be used to address different TSP needs

- **Related Technical Services**
 - The rule identifies "related technical assistance services in this rulemaking to include conservation planning documentation, payment scheduling and documentation, market survey information related to the establishment of easements compensation rates, and similar activities which result in more timely implementation of conservation programs." However, these hard deliverables alone will not "accelerate conservation program delivery" and will not fulfill the intent of Congress. Other important activities such as landowner contacts and relations, education, outreach, participant training, and assistance with the planning, design, installation, implementation will accelerate conservation program delivery and ease workload burdens on NRCS staff. We recommend expanding the list of "related technical assistance services" to fulfill the intent of Congress, assist NRCS staff, and accelerate conservation program delivery.
- **TSP Payment Rates**
 - The rule states: "The rule changes existing policy by establishing that the NRCS State offices will determine fair and reasonable payment rates for TSPA using guidelines established by the National Office and local NRCS cost, market, and procurement data that are available. NRCS will emphasize using market rate data where available to determine TSP payment rates."
 - The IDNR supports the use of "common guidelines" to ensure "consistency" in processes for determining payment rates from state-to-state. Guidelines from the National Office must be flexible enough to allow for variation among states for assorted practices and services provided. However, the guidelines must not tie the hands of State Conservationists and their ability to

- appropriately set payment rates that are fair and reflect local market conditions. Guidance from the National Office must facilitate state-by-state, even regionally within a state, flexibility in setting payment rates.
- o The rule also states that "The NRCS National Office will review and approve State payment rates to ensure regional consistency..." Regional consistency does not ensure or promote fair or reasonable payment rates that reflect the local conditions. "Ensuring regional consistency" will not enable State Conservationists to set rates that reflect local market conditions. Going to a National Practice Rate, like for Technical Assistance, will create problems as costs to implement certain practices will vary widely across the country, making it very difficult to ensure regional consistency. The IDNR recommends that NRCS allow State Conservationists the needed flexibility to set payment rates that best reflect fair, local market conditions and considerations without regard for regional consistency.
- **Certification Requirements**
 - o The IDNR believes that based on the states' statutory authority for management of fish and wildlife, State fish and wildlife agency personnel that administer state law and have authority to manage these resources should not have to be certified by NRCS to provide technical assistance on fish and wildlife practices. This is duplicative, a waste of valuable resources and time, and already within the realm of state agency personnel authority.
 - **Agreements**
 - o The IDNR recommends NRCS promote and use 3-year "umbrella" agreements when ever possible and appropriate. One year agreements are an increased workload for all parties and do not provide the continuity of staff needed by the agencies/organizations and landowners. Rather than renegotiating the contract agreement every year, the IDNR strongly recommends NRCS use a 3-year "umbrella agreement." This is a multiyear agreement that can be amended yearly to reflect allocated funding, workload, capacity, and natural resource priorities after NRCS receives its annual budget. This is more efficient and will provide consistency in staff and expertise, reduce staff turnover, and avoid hours spent yearly re-negotiating the entire agreement.

Specific Comments by Section of the Rule:

652.1 Applicability

- (a) "... directly, through an agreement with a third party provider..." We support the use of the word "agreement" which will allow flexibility to use the most appropriate and beneficial type agreement for a given situation. However, NRCS should clarify in the rule and in subsequent policy which types of agreements must be advertised. Additionally, considering the current economic conditions, we strongly encourage NRCS policy to allow a negotiable match from partners under cooperative and contribution agreements. Many States and conservation partners cannot meet the 50% match rate because of budget cuts and diminishing resources and need more fiscal flexibility to help NRCS deliver conservation programs.
- (b) The IDNR believes the list of services provided under this section to be too restrictive and limiting. Additionally, we do not believe this list of hard deliverables will not "accelerate

the delivery of conservation programs" as Congress intended. To accurately reflect changes in the law, IDNR recommends rewording (b) to read as follows:

- (b) Technical service providers may provide technical services to eligible participants in conservation and forestry planning, education, outreach, training, and assistance with the planning, design, installation, implementation, and check-out of conservation practices applied on private land, Indian land, or where allowed by conservation program rules on public land where there is a direct private land benefit.

652.2 Definitions

• Technical service

- The rule fails to recognize "outreach and education" as important components of technical services, yet these items are included in the law. The IDNR recommends using the following definition of technical service in the final rule:
- Technical service means the assistance provided by technical service providers, including conservation and forestry planning; participant education, outreach, and training; conservation practice assistance, design, layout, implementation and installation; and certification that the conservation practice meets NRCS standards and specifications.

• Related Technical Services

- The rule does not include a definition of related technical services even though the term is used in the rule. The IDNR recommends including the following definition of related technical services in the final rule to provide clarity and fulfillment of Congressional intent:
- Related technical assistance services means all other forms of assistance to NRCS and participants that accelerates the delivery of technical assistance and may include participant contacts and relations; site visits; assistance with practice coordination and the implementation of plans; NRCS staff and participant training on initiatives or practices; and activities or services that facilitate the development, processing, or implementation of a program contract, including recording conservation planning decisions and specifications.

Section 652.5 Eligible participant acquisition of technical services.

- (e) "...activity plans suitable for subsequence incorporation into a program contract." The IDNR strongly supports this provision and recommends it be incorporated as written into the final rule.
- (m)(1) "...using national, regional, and locally determined price data." The IDNR strongly supports this provision and recommends it be incorporated as written into the final rule.
- (m)(1)(iii) "...review and approve State payment to ensure consistency where similar resource conditions and agricultural operations exist." The IDNR encourages flexibility for a State Conservationist to set payment rates that reflect fair market values and local conditions. Therefore, we suggest the following be incorporated into the final rule:
 - (m)(1)(iii) "...review and approve State payment rates based on fair market values and local conditions. Payment rates may vary between or within States and regions

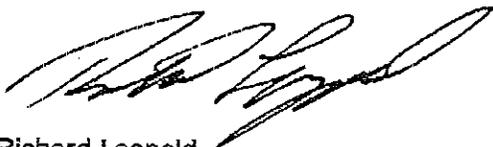
due to differences in State laws, structured work force conditions, the cost of doing business, competition, and other variables.

- (m)(1)(iv) "review payment rates annually, or more frequently as needed." The IDNR strongly supports this provision. Annual review should allow for adjustments to reflect local market rates and conditions.
- (m)(1)(v) "NRCS may adjust payment rates, as needed, on a case-by-case basis, ..." The IDNR supports this flexibility and commends NRCS for the forethought to include this provision in the rule.

Section 652.6 Department delivery of technical services

- (b) "Related technical assistance services may include..." The IDNR believes the list of related technical assistance services is narrowly defined and must be expanded to meet Congressional intent and accelerate conservation program delivery. The IDNR recommends rewording the second sentence in this section as follows:
 - Related technical assistance services means all other forms of assistance to NRCS and participants that accelerates the delivery of technical assistance and may include participant contacts and relations; site visits; assistance with practice coordination and the implementation of plans; NRCS staff and participant training on initiatives or practices; and activities or services that facilitate the development, processing, or implementation of a program contract, including recording conservation planning decisions and specifications.
- (c) "...other agencies or with a non-Federal entity..." Thank you for including the State fish and wildlife agencies in this provision and for acknowledging the value that State agencies bring to the table with respect to expertise on fish and wildlife issues. The IDNR strongly supports this because it will allow IDNR to continue their working relationship with NRCS while providing assistance to Iowa producers and the natural resources. We also support the use of the term "agreements" which allows more state-by-state flexibility and the best type of agreement to be applied in a particular situation. This is critical to the success of technical assistance delivery.
- (e) "... Any contract, contribution agreement, cooperative agreement, or other appropriate instrument..." The IDNR strongly supports this provision and recommends it be incorporated as written into the final rule. Additionally in policy, we encourage NRCS to use 3-year umbrella agreements, when appropriate, that can be amended annually to address fluctuations in annual appropriations, workload, staff capacity and natural resource concerns. This provides for consistency and stability over time for NRCS staff and program participants as well as technical service providers.

Sincerely,



Richard Leopold
Director