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Nebraska Game and Parks Commission

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Technical Service Provider Assistance Rule Docket Number NRCS-IFR-08011

The Nebraska Game and Parks Commission (Commission) appreciates the opportunity to comment on the interim rule affecting Farm and Ranch Lands Protection Program as provided by the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill). The Commission provides technical assistance for delivering USDA conservation programs to Nebraska's private landowners, and also uses state funds to assist in fully delivering fish and wildlife conservation benefits of these programs in the state.

General Discussion:

We are encouraged that the rule now includes eligible technical services such as conservation planning, education and outreach, and assistance with design and implementation. There is more to "related technical assistance services" than the production of hard deliverables that may be tracked through NRCS software as described in the first paragraph of this section. In fact, there are many actions, activities and services that are involved in developing and implementing a conservation or forestry plan and working with landowners that "accelerate conservation program delivery" but are not hard deliverables such as implementation of a program contract such as recording conservation planning decisions and specifications. It is important to make this distinction and broaden the concept and interpretation of related technical services in this rule in order to fulfill Congress's intent of "related technical assistance services that accelerate conservation program delivery", as paying only for hard deliverables (the current model being used) does not do this and requires the TSP provider to complete these services *gratis*.

We request State fish and wildlife agencies should not be required to certify for providing fish and wildlife technical assistance to USDA. The rule should clarify that those agencies with state authority, by law, to manage the resources should not have to be certified by NRCS; as this is duplicative and is clearly within the realm of state agency personnel authority. State authority provides unique qualification because state biologists are already the state's authority on specific areas of expertise.

NRCS should encourage that the maximum term of agreements should be used with existing authorities (such as state fish and wildlife agencies), rather than renegotiating the contract agreement every year. This allows for more stability staff, less turnover, less time training new staff, and more effective and efficient delivery of technical assistance to landowners and participants. We encourage the use of multi-year

umbrella agreements that can be amended annually once the State Conservationist has a budget for incoming TSP funds for each year.

We are encouraged by the additional language in the rules regarding reimbursement for fully delivering programs, rather than the current model of only reimbursing for practices completed. The most recent TSP agreements with NRCS limited reimbursement only for completion of practices, resulting in TSP partners funding the majority of delivery costs (the work with a landowner or participant before they enroll in a program). Effective conservation of resources should be done in the way that most effectively solves a landowners conservation problem. However, to effectively do this, NRCS also needs to set rates for conservation services, not just conservation landowners.

Specific Comments By Section of the Rule:

652.1 Applicability

- **(b) Insert and expand the list of activities to “accelerate the delivery of conservation programs”:** the law states – “technical services provided directly to eligible participants, such as conservation planning, education and outreach, and assistance with design and implementation of conservation practices; and related technical assistance services that accelerate conservation program delivery.”
- **(b) Need to include forestry plans**

Proposed change 652.1(b): Technical service providers may provide technical services to eligible participants in conservation **and forestry planning, education, outreach, participant 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

The definition of **Technical** service does not include the additional services for education and outreach to participants, and training of NRCS staff. **Related technical assistance services** is used in the rule but is not defined, and needs to be defined in order to clearly identify additional forms of assistance that can be reimbursed under technical service provider agreements. These definitions are needed, as the TSP provider currently is burdened with the costs for these education and outreach to landowners, and up-front work with a landowner before applying for any specific program (including a site visit, understanding the landowners goals, and directing them to the most appropriate program to effectively meet all of their conservation needs).

Proposed changes to definitions 652.2

Technical service means the assistance provided by technical service providers, including conservation **and forestry** planning; **landowner and participant education, outreach, and training**; conservation practice **assistance**, design, layout, **implementation** and installation; and certification that the conservation practice meets NRCS standards and specifications.

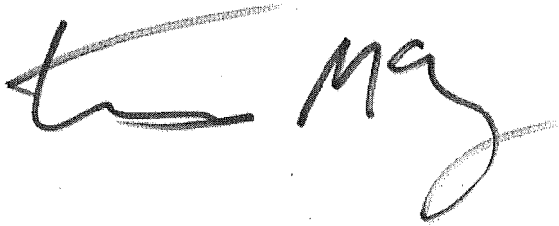
Related technical assistance services means all other forms of assistance to NRCS and landowners that accelerates the delivery of technical assistance and may include landowner or participant contacts and relations; site visits; assistance with practice coordination and the implementation of plans; NRCS staff and landowner/participant training on initiatives or practices; as well as activities or services that facilitate the development, processing, or implementation of a program contract, including recording conservation planning decisions and specifications.

- **652.5 Eligible participant acquisition of technical services.**
 - **(e)** we applaud NRCS for including “activity plans suitable for subsequent incorporation into a program contract.” This must be kept in the final rule.
 - **(2) (iii), (iv), (v)** – the inclusion of flexibility in rule to allow flexibility within and among state, and to allow adjustments is much needed. We commend NRCS for the forethought to include this provision in the rule. This must be included in the final rule.

Section 652.6 Department delivery of technical services

- **652.6 (c)** – The inclusion of state agencies formally recognizes the value and expertise they can provide to NRCS, landowners, and participants. State fish and wildlife agencies have authority and expertise in providing fish and wildlife habitat and in dealing with fish and wildlife issues. This is critical to the successful and effective delivery of technical assistance for NRCS programs.
- **(e)** 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, landowners and participants as well as technical service providers.

Thank you for the opportunity to provide comments on these important issues.

A handwritten signature in black ink, appearing to read "Tim McCoy". The signature is stylized, with a long horizontal stroke for the first name and a more compact, cursive style for the last name.

Timothy McCoy, Ag Program Manager
On behalf of the Nebraska Game and Parks Commission