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DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

7 CFR Part 610

RIN 0578-AA22

Technical Assistance

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: Section 342 of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) expands the membership and roles of State Technical Committees established pursuant to Section 1261 of the Food Security Act of 1985, as amended (the 1985 Act). Under Section 1261, the Secretary must establish a technical committee in each State to assist in making technical considerations related to the implementation of the 1985 Act's conservation provisions. Consistent with the 1985 Act, State Technical Committees work closely with the United States Department of Agriculture (USDA) in an advisory capacity.

This rule sets forth the policies and procedures for the use of State Technical Committees by USDA, the membership criteria, and the responsibilities assigned to these committees. It also amends regulations to reflect the responsibilities assigned to the Natural Resources Conservation Service (NRCS) beyond that of soil conservation. This rule amends regulations to acknowledge the NRCS mission to promote the long-term sustainability of all agricultural lands, including cropland, forestland, and grazing lands which include pastureland, rangeland, and grazed forest land. This rule further explains the NRCS mission to include improving water quality, fish and wildlife habitat, wetlands, and unique natural areas.

EFFECTIVE DATE: August 3, 1999.

ADDRESSES: This rule may also be accessed via Internet. Users can access the NRCS **Federal Register** homepage and submit comments at: <http://www.nrcs.usda.gov>; select 1996 Farm Conservation Programs from the menu.

FOR FURTHER INFORMATION CONTACT: Gary R. Nordstrom, Conservation Operations Division, Natural Resources Conservation Service; telephone: (202) 720-1845; fax: (202) 720-4265; E-mail: gary.nordstrom@usda.gov, Attention: State Technical Committee.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. Pursuant to Sec. 6(a)(3) of Executive Order 12866, the NRCS has conducted an economic analysis of the potential impacts associated with this final rule. Because it is not possible to measure all costs or benefits of the State Technical Committees using strict benefit-cost techniques, a cost-effectiveness analysis was used. This analysis estimates that no material adverse effects on the economy, a sector of the economy, agricultural productivity, competition, jobs, the environment, public safety, or State, local, or tribal governments or communities are expected from implementation of this final rule. Copies of the benefit-cost assessment are available upon request from Mitch Flanagan, Attn: State Tech. Comm., Conservation Operations Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013-2890.

Regulatory Flexibility Act

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

Environmental Evaluation

NRCS has determined that this final rule is within the categorical exclusion for advisory and consultative activities under 7 CFR Sec. 1b.3(a)6. Therefore, an environmental assessment was not conducted.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this final rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0578-0027 to the information collection and recordkeeping requirements. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for Agriculture, Washington, DC 20503. Please also send a copy of your comments to Gary R. Nordstrom, PO Box 2890, Washington, DC 20013.

The paperwork associated with the establishment of State Technical Committees will include submission of a request for committee membership consideration including an explanation of the individual's interest and a description of their credentials relevant to becoming a member of the State Technical Committee. We are soliciting comments from the public (as well as from affected agencies) concerning our information collection and recordkeeping requirements. We need this outside input to help us accomplish the following:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological

collection techniques or other forms of information technology, e.g., permitting electronic submission responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 60 minutes per response.

Estimated number of respondents: 240 (annually).

Estimated number of responses per respondent: 1.

Estimated total annual burden on respondents: 240.

Copies of this information collection can be obtained from: Information Clearance Officer, OCIO, USDA, Room 404-W, 1400 Independence Avenue, Washington, DC 20250.

Unfunded Mandates Reform Act of 1995

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, the effects of this rulemaking action on State, local, and tribal governments, and the public have been assessed. 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

USDA classified this final rule as not major; therefore, under Section 304 of the Department of Agriculture Reorganization Act of 1994, Pub. L. 103-354, a risk assessment was not required.

Background and Purpose

Section 1261 of the 1985 Act sets out the membership and roles of the State Technical Committees. Section 1262 (e) exempts State Technical Committees from the provisions of the Federal Advisory Committee Act.

NRCS policy encourages individuals from a variety of natural resource sciences and occupations to participate on the State Technical Committee. NRCS considers the expanded membership of State Technical Committees as a positive step towards gaining local conservation expertise. However, NRCS believes that the ultimate responsibility of the NRCS State Conservationist in a particular State is to ensure that all interests are adequately represented on the committee and that committee recommendations are applied in a streamlined and cost-effective manner.

The 1996 Act (Pub. L. 104-127) expanded eligibility for State Technical

Committee membership to include representatives from the private sector. In addition to these members, the State Technical Committee includes additional agencies and groups based on their proven expertise with conservation programs. These member agencies and groups include the following: Environmental Protection Agency, Bureau of Indian Affairs, U.S. Geological Survey, U.S. Army Corps of Engineers, Farm Service Agency State Committee, and Federally-recognized American Indian Tribal Governments and Alaskan Native Corporations encompassing 100,000 acres or more in the State.

The State Technical Committees include one representative from each of the following agencies or groups, unless the agency or group declines membership:

Department of Agriculture

- NRCS (Chairperson);
- Farm Service Agency;
- Farm Service Agency State Committee;
- Forest Service;
- Cooperative State Research, Education, and Extension Service;
- Rural Development;

Department of the Interior

- Fish and Wildlife Service;
- Bureau of Land Management;
- Bureau of Indian Affairs;
- Bureau of Reclamation;
- U.S. Geological Survey;

Department of Defense

- Army Corps of Engineers;
- Each of the Federally recognized American Indian Tribal Governments and Alaskan Native Corporations, encompassing 100,000 acres or more in the State;
- State departments and agencies which the NRCS State Conservationist deems appropriate, for example, a member from each of the following:
 - Fish and wildlife agency;
 - Forestry agency;
 - Water resources agency;
 - Department of agriculture;
 - Association of soil and water conservation districts;
 - Coastal zone management agency;
 - Soil and water conservation agency;
- Other Federal, State, Tribal and local agency representatives with expertise in soil, water, wetlands, plant, and wildlife management, as the NRCS State Conservationist considers appropriate.

In addition to Federal, State, Tribal, and local agency and group membership, the State Technical

Committees will include members from the following private interests: [including:]

- Agricultural producers with demonstrable conservation expertise;
- Nonprofit organizations with demonstrable conservation expertise;
- Persons knowledgeable about conservation techniques and programs; and
- Representatives from agribusiness.

To ensure that recommendations of the State Technical Committees take into account the needs of the diverse groups served by USDA, membership shall include, to the extent practicable, individuals with demonstrated ability and skills concerning natural resource conservation subjects specific to historically under-served groups and individuals; i.e. minorities, women, persons with disabilities and socially and economically disadvantaged groups.

The NRCS State Conservationist determines the membership on the State Technical Committee. Individuals or groups wanting to participate on a State Technical Committee may submit to the NRCS State Conservationist for that State a request that explains their interest and outlines their credentials, which they believe are relevant to becoming a member of the State Technical Committee. Decisions of the NRCS State Conservationist concerning membership on the committee are final and are not subject to appeal.

State Technical Committee meetings are open to the public. The State Conservationist will provide public notice of meetings that consider issues relating to particular conservation programs. The State Conservationist will publish a meeting notice no later than 14 calendar days prior to the meeting. Notification may exceed this 14-day minimum where State open meeting laws exist and require a longer notification period. An exception to this minimum 14-day notice requirement may occur in the case of an emergency. The State Conservationist will publish this meeting notice in one or more newspaper(s), including recommended Tribal publications, to achieve statewide notification. The State Conservationist will schedule and conduct the meetings, although meetings may be requested by any USDA agency, as needed.

In some situations, specialized subcommittees, made up of State Technical Committee members, may be needed to analyze and refine specific issues. The State Conservationist may assemble certain members to discuss, examine, and focus on a particular technical or programmatic topic. In such situations, where subcommittee

meetings occur, the subcommittee may seek public participation. Nevertheless, official recommendations resulting from these subcommittee sessions shall be made only in a general session of the State Technical Committee, where the public is notified and invited to attend.

The State Technical Committees have no implementation or enforcement authority. However, the Committees' advisory capacity extends to many of the USDA conservation programs. As set forth in Section 1262 of the Act (16 U.S.C. 3862(b)(1) and 16 U.S.C. 3862(c)), the responsibilities of the State Technical Committee include recommendations on technical matters such as:

- Guidelines for evaluating petitions by agricultural producers regarding new conservation practices and systems not already described in field office technical guides;

- Aspects of wetland protection, restoration, and mitigation requirements;

- Criteria to be used in evaluating bids for enrollment of environmentally-sensitive lands in the Conservation Reserve Program (16 U.S.C. 3831–3836);

- Guidelines for haying or grazing and the control of weeds to protect nesting wildlife on set-aside acreage;
- Highly erodible land exemptions and the appeals process as they pertain to technical issues and information;
- Wetland and highly erodible land conservation compliance exemptions and the appeals process;

- Methods to address common weed and pest problems and programs to control weeds and pests found on acreage enrolled in the Conservation Reserve Program (16 U.S.C. 3831–3836);

- Guidelines for planting perennial cover for water quality and wildlife habitat improvement on set-aside lands;

- Criteria and priorities for state initiatives under the Environmental Quality Incentives Program (EQIP) (16 U.S.C. 3839aa) and 7 CFR 1466, including:

- Criteria to prioritize applications from applicants with significant statewide resource concerns outside a priority area;

- Eligible conservation practices for an EQIP priority area or for significant statewide resource concerns outside a priority area;

- Criteria to be used in defining a large confined livestock operation;

- Suggestions on how often producers' applications are ranked and selected; and

- Determination of cost share and incentive payment limits for participants subject to environmental requirements or with significant

statewide resource concerns outside a priority area.

Section 1262 of the Act (16 U.S.C. 3862(c)(9)) also provides that State Technical Committees may offer recommendations on other matters determined appropriate by the NRCS State Conservationist. USDA will seek State Technical Committee recommendations including, but not limited to, the following:

- The implementation of the Wildlife Habitat Incentives Program (WHIP), (16 U.S.C. 3836a);

- The development of a statewide Wetlands Reserve Program (WRP) (16 U.S.C. 3837) wetland restoration plan;

- Statewide program guidelines applicable to WRP easement compensation, restoration planning, priority ranking, and related policy matters, 7 CFR part 1467;

- The technical merits of proposals submitted for the Farmland Protection Program;

- Identification of any categories of conversion activities and conditions, which are routinely determined by NRCS to have minimal effect on wetland functions and values as described in 7 CFR part 12;

- Conservation techniques and measures related to achieving environmental justice needs; and

- Types or classes of wetland that are not eligible for mitigation exemption under the Wetland Conservation provisions of 7 CFR part 12.

Technical Assistance

The NRCS delivers the majority of the USDA technical assistance provided to private landowners pursuant to 7 CFR 610.2. Section 610.2 has not yet been revised to provide for the responsibilities assigned to the NRCS beyond that of soil conservation. To reflect the broader mission of NRCS, particularly as it relates to technical assistance provided to private grazing land (16 U.S.C. 2005b) and fish and wildlife habitat areas, NRCS is amending Sec. 610.2. This Section acknowledges that NRCS' mission encompasses promoting the quality of all agricultural lands, including grazing land, pastureland, rangeland, forestland, and cropland, so that the long-term sustainability of the resource base is achieved with special attention to water quality, fish and wildlife habitat, wetlands, and unique natural areas.

Analysis of Public Comments

In general, all 38 respondents expressed appreciation for the opportunity to comment on Part 610. Most of the respondents were pleased with the rule and offered valuable

suggestions on how to encourage public participation on State Technical Committees and better explain NRCS' mission, particularly as it relates to providing technical assistance. The majority of the comments were concerned with six major issues in the proposed rule: (1) Explaining the scope of the NRCS mission, as it pertains to technical assistance; (2) notifying the public and State Technical Committee members about meetings and the decisions following these meetings; (3) extending State Technical Committee responsibilities beyond the programs listed in the proposed rule; (4) clarifying the role of the Chairperson; and (5) identifying membership of the State Technical Committee and its specialized subcommittees. Two comments suggested that the title of State Technical Committee be changed to Farm Bill Technical Committee; however, NRCS did not adopt these comments because the State Technical Committees provides advice and recommendations on more than just Farm Bill issues. The following paragraphs summarize the comments received on the proposed rule and NRCS' responses to them.

Preamble Comments by Section

Section 610.2 Scope

Comment: NRCS received ten comments on revising the scope of NRCS technical assistance. None of those who commented opposed the language that was proposed in this section; however, nine of the ten wanted to expand or clarify the scope of NRCS technical assistance. Seven comments expressed an interest in adding fish and wildlife habitat, wetlands, and natural areas to NRCS' mission statement. Several of these comments also supported NRCS expanding its mission to urban areas. One comment indicated that they would like to see its mission statement broadened to include urban erosion and sediment control, water quality, abandoned mine reclamation and rural development, while another comment wanted to expand upon the definition of grazing lands, which would include rangeland, pastureland, grazed forestland, and hayland. Two of the ten comments also supported expanding NRCS' mission to include coastal zone management. One comment indicated satisfaction with the language.

Response: The NRCS appreciates these comments and has clarified the regulations to explain its mission to include improving water quality, fish and wildlife habitat, and wetlands, since many of the authorities under

which NRCS operates include references to fish and wildlife habitat, water quality, and wetlands. NRCS technical assistance does extend to coastal zone management, abandoned mine reclamation and rural development; however, other Federal agencies have a much greater role in these matters.

Subpart C—State Technical Committees

Section 610.21 Purpose and Scope

Comment: All of the comments received by NRCS supported the establishment of State Technical Committees in each State. As of September 30, 1996, all states had established State Technical Committees to assist in making technical recommendations relating to the implementation of USDA conservation provisions. Three comments requested that State Technical Committee recommendations be considered as more than just advice.

Response: The purpose of State Technical Committee, which is stated in the rule, mirrors the statutory purposes. According to Sec. 1262 of the 1985 Act, State Technical Committees are "advisory and shall have no implementation and enforcement authority;" however, the [State Conservationist] shall give strong consideration to the recommendations of such Committees. * * *

Section 610.22 State Technical Committee Membership

Comment: NRCS received 33 comments on State Technical Committee membership. Four comments supported more local involvement on State Technical Committees, while seven commenters would like to see all agricultural and conservation organizations represented on the committee. One comment asked to see farmers represented on the Committee.

Response: NRCS supports representation from farmers, agricultural and conservation organizations, and other local organizations with conservation technical expertise. The final rule's representation requirements for these organizations and individuals mirrors what is in the statute. This includes representatives from the agricultural community and agribusiness.

Comment: Two comments would like state agency representation to be mandatory rather than "as the State Conservationist deems appropriate."

Response: NRCS has supported and continues to support state agency representation on the State Technical

Committee. Historically, NRCS has included members from a variety of state agencies. In fact, in a survey that was conducted in 1996, it was estimated that approximately 49 percent of its members are government employees, over 22 percent being from state agencies. In order to maintain Committee balance among all interests and assure that other interests are fairly represented, NRCS has chosen to retain the statute's language "as deemed appropriate" for State Technical Committee membership and rely on its State Conservationist to determine state agency participation.

Comment: Three comments expressed concerns about the size of State Technical Committees. One comment stated that State Technical Committees will be unwieldy by including all the members that were suggested in the proposed rule. Another comment requested that excessive representation of governmental entities be eliminated. One comment suggested that a procedure be established to expand or reduce the size of the Committee, while four comments indicated that they were satisfied with the proposed State Technical Committee membership.

Response: NRCS shares many of these concerns and has therefore limited membership of governmental agencies to one representative from each of the agencies mentioned in the proposed rule. In order to control the potential unwieldiness that may occur when a large committee meets, NRCS has also established specialized subcommittees, in 7 CFR 610.25, to discuss, analyze, and refine specific issues. NRCS believes that these specialized subcommittees will assist in making these State Technical Committees operate more efficiently and effectively.

Comment: One comment supported allowing the State Conservationist, as Chairperson, to remove an appointed member for lack of participation. Three comments suggested using a fixed-term membership.

Response: NRCS is required by statute to offer membership to several agencies and other categories of participants. To dismiss one member, due to lack of participation, would be contrary to the statutory mandate. However, NRCS also believes that some members may be reluctant to serve due to time, travel, or other constraints and therefore, NRCS has included the phrase, "if willing to serve." Furthermore, NRCS believes that it is up to the agency or organization to select its representative and the term in which they want the representative to serve on the State Technical Committee.

Comment: One comment proposed to include the National Agricultural

Statistics Service (NASS) and Environmental Protection Agency (EPA) in State Technical Committee membership.

Response: In the proposed rule, NRCS included EPA in the State Technical Committee membership based on its conservation expertise. In addition to EPA, NRCS has also included, based on their natural resource conservation expertise and past involvement with State Technical Committees, the following agencies and organizations: Bureau of Indian Affairs, U.S. Geological Survey, U.S. Army Corps of Engineers, State Farm Service Agency Committee, and Federally-recognized American Indian Tribal Governments and Alaskan Native Corporations, encompassing 100,000 acres or more in the State. NRCS encourages the State Conservationist to consider and to invite representatives from agencies which may have conservation expertise, such as NASS.

Comment: One comment requested that NRCS make certain that under-served minorities are included as members of the Committee and as participants in the public meeting.

Response: NRCS shares this concern and will increase its outreach to all communities to ensure that representation on the State Technical Committee includes diverse groups. In addition, membership shall include, to the extent practicable, individuals with conservation expertise, which may be particular to historically under-served groups, such as minorities, women, and persons with disabilities.

Comment: Two comments requested that the proposed rule should be amended to have two classes of membership on the State Technical Committee. They suggested that membership on the actual committee should be limited to directors of the individual State or Federal agencies with direct ties to USDA conservation programs. The other committee should consist of department heads or other experts that have expertise in conservation issues but do not have direct authority to implement conservation programs.

Response: NRCS believes that this tiered approach is inconsistent with the law and undermines the broad advice that State Technical Committees are authorized to provide.

Comment: Seven comments requested that NRCS provide a written rationale when organizations and individuals are denied membership. Three of these comments requested appeal rights to the Secretary be granted if membership is denied.

Response: The purpose of the State Technical Committee is to improve the technical quality of USDA decisions on conservation matters. Section 1261 does not create any rights or benefits for any group or individual. Therefore, the State Conservationist's denial of participation does not constitute an adverse decision subject to appeal. In addition, NRCS believes that it is not necessary for a written rationale to be provided when organizations and individuals are denied membership.

Section 610.23 State Technical Committee Meetings

Comment: Six comments requested that NRCS require at least a 14-calendar day notice of all State Technical Committee meetings, rather than the proposed 7-calendar day minimum notice. Four comments suggested that these meetings be held on a quarterly basis, rather than being arranged as appropriate, in order to allow members enough time to arrange their schedule.

Response: NRCS accepted the minimum 14-calendar day notice requirement suggestion, except in cases of emergencies. Notification may exceed this 14-day minimum, where State open meeting laws exist and a longer notification period would be appropriate for participation by State agencies.

Comment: Eleven comments complained that, in the past, many members were not prepared to discuss issues raised at meetings. In addition, they questioned whether their advice was adequately considered by the State Conservationist. As a result, they requested stricter guidelines for State Conservationists, relating to meeting preparations. These included: notifying members of final decisions made; circulating an agenda prior to the meeting; and writing and distributing minutes.

Response: NRCS agrees with the need to prepare members for meetings with upcoming agendas and background information. It also agrees that providing minutes and informing the members of final decisions is extremely important; however, NRCS will outline these detailed requirements in guidance documents to the NRCS State Offices, rather than in the final rule.

Comment: Three comments requested that the State Conservationist notify State Technical Committee members via a mailing list and newspapers.

Response: NRCS concurs with this comment and will outline these requirements in guidance documents to the NRCS State Offices, rather than in the final rule.

Comment: Three comments requested that the role of the State Technical Chairperson be further defined, while another requested that the Chair rotate among members.

Response: NRCS believes that the role of the Chairperson needs to remain flexible; therefore, NRCS is not placing restrictions in the rule. In regards to rotating the Chair among members, NRCS believes that the accountability of the Chairperson for meeting the required duty necessitates that the State Conservationist serve in such capacity.

Section 610.24 Responsibilities of State Technical Committees

Comment: Eight comments requested that the role of the State Technical Committees be extended to advise on issues relating to the Conservation Reserve Program (CRP), while three specifically wanted the State Technical Committee to advise on CRP bid offers, as suggested in Sec. 1262(c) of the Act. Six comments suggested that the State Technical Committee's responsibility for establishing guidelines and criteria for evaluating petitions by agricultural producers for new conservation practices and systems also be included in the final rule. Five other comments suggested that the Committee's responsibility should extend to other programs, such as the Farmland Protection Program and other programs.

Response: NRCS previously set forth the State Technical Committee's responsibilities in the proposed rule and other final rules and public notices pertaining to USDA conservation programs. NRCS believes that these lists and the list that is included in this final rule are adequate in outlining the roles and responsibilities of State Technical Committees.

Section 610.25 Specialized Subcommittees.

Comment: Three comments indicated that they supported the proposed rule's subcommittee language, although two comments suggested that this be included in both the preamble and the regulations published in the final rule.

Response: NRCS agreed with these comments and has inserted the State Technical Committee subcommittee language in both the preamble and the regulations published in this final rule.

Comment: Five comments requested that subcommittees be open to agencies, groups, or persons who are not members of the State Technical Committee.

Response: NRCS believes in allowing as many individuals to participate in the process as possible. However, to have the work of the subcommittee truly focus on the work of the State Technical

Committee, subcommittee members need to consist only of members from the State Technical Committee. NRCS welcomes non-members to attend the public meetings and to submit comments as appropriate.

List of Subjects in 7 CFR Part 610

Soil conservation, Technical assistance, Water resources.

Accordingly, part 610 of Title 7 of the Code of Federal Regulations is amended as follows:

PART 610—[AMENDED]

1. The authority for Part 610 is revised to read as follows:

Authority: 16 U.S.C. 590a-f, 590q, 2005b, 3861, 3862.

2. Section 610.2 is revised to read as follows:

§ 610.2 Scope.

(a) Conservation operations, including technical assistance, is the basic soil and water conservation program of NRCS. This program is designed to:

(1) Reduce soil losses from erosion;

(2) Help solve soil, water, and agricultural waste management problems;

(3) Bring about adjustments in land use as needed;

(4) Reduce damage caused by excess water and sedimentation;

(5) Enhance the quality of fish and wildlife habitat; and

(6) Improve all agricultural lands, including cropland, forestland, and grazing lands that include pastureland, rangeland, and grazed forestland so that the long-term sustainability of the resource base is achieved.

(b) The Natural Resources Conservation Service is USDA's technical agency for providing assistance to private landowners, conservation districts, and other organizations in planning and carrying out their conservation activities and programs. NRCS works with individuals, groups, and units of government to help them plan and carry out conservation decisions to meet their objectives.

3. A new Subpart C is added to read as follows:

Subpart C—State Technical Committees

Sec.

610.21 Purpose and scope.

610.22 State Technical Committee membership.

610.23 State Technical Committee meetings.

610.24 Responsibilities of State Technical Committees.

610.25 Specialized Subcommittees.

§ 610.21 Purpose and scope.

This subpart sets forth the procedures for establishing and using the advice of State Technical Committees. NRCS shall establish in each State a technical committee to assist in making technical recommendations relating to the implementation of natural resource conservation activities and programs. USDA will use State Technical Committees in an advisory capacity in the administration of certain conservation programs and initiatives. These State Technical Committees are exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.2).

§ 610.22 State Technical Committee membership.

(a) State Technical Committees shall include members who represent a variety of natural resource sciences and occupations, including those related to soil, water, wetlands, plants, and wildlife. The State Conservationist in each State will serve as chairperson. In addition, committee membership will include one representative from each of the following agencies or groups, if willing to serve:

- (1) NRCS, USDA;
- (2) Farm Service Agency, USDA;
- (3) State Farm Service Agency Committee, USDA;
- (4) Forest Service, USDA;
- (5) Cooperative State Research, Education, and Extension Service, USDA;
- (6) Rural Development, USDA;
- (7) Fish and Wildlife Service, United States Department of Interior;
- (8) United States Environmental Protection Agency;
- (9) Bureau of Land Management, United States Department of Interior;
- (10) Bureau of Indian Affairs, United States Department of Interior;
- (11) U.S. Geological Survey, United States Department of Interior;
- (12) Bureau of Reclamation, United States Department of Interior;
- (13) Corps of Engineers, United States Department of the Army;
- (14) Each of the Federally recognized American Indian Tribal Governments and Alaskan Native Corporations encompassing 100,000 acres or more in the State;
- (15) State departments and agencies that the NRCS State Conservationist deems appropriate, including a member from each of the following agencies or entities within the State:
 - (i) Fish and wildlife agency;
 - (ii) Forestry agency;
 - (iii) Water resources agency;
 - (iv) Department of agriculture;
 - (v) Association of soil and water conservation districts;

(vi) Soil and water conservation agency;

(vii) Coastal zone management agency; and

(16) Other Federal, State, tribal, and local agency personnel with expertise in soil, water, wetlands, plant, and wildlife management, as the NRCS State Conservationist considers appropriate.

(b) In addition to agency and Tribal membership, State Technical Committees shall include members from the following private interests, if willing to serve:

(1) Agricultural producers with demonstrable conservation expertise;

(2) Nonprofit organizations with demonstrable conservation expertise;

(3) Persons knowledgeable about economic and environmental impacts of conservation techniques and programs; and

(4) Representatives from agribusiness.

(c) To ensure that recommendations of the State Technical Committees take into account the needs of the diverse groups served by the USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the conservation and related technical concerns of particular historically under-served groups and individuals; i.e., minorities, women, persons with disabilities and socially and economically disadvantaged groups.

(d) In accordance with the guidelines in paragraphs (a), (b), and (c) of this section, the State Conservationist establishes membership on the State Technical Committee. Individuals or groups wanting to participate on a State Technical Committee within a specific State may submit to the State Conservationist of that particular State a request that explains their interest and outlines their credentials which they believe are relevant to becoming a member of the State Technical Committee. Decisions of the State Conservationist concerning membership on the committee are final and not appealable to any other individual or group within USDA.

§ 610.23 State Technical Committee meetings.

(a) The State Conservationist shall provide public notice of State Technical Committee meetings in which issues related to conservation programs will be considered.

(b) The State Conservationist shall publish a meeting notice no later than 14 calendar days prior to the meeting. Notification may exceed this 14-day minimum where State open meeting laws exist and provide for a longer notification period. This minimum 14-

day notice requirement may be waived in the case of exceptional conditions. The State Conservationist shall publish this notice in at least one or more newspaper(s), including recommended Tribal publications, to attain statewide circulation. The State Conservationist, as Chairperson, schedules and conducts the meetings, although a meeting may be requested by any USDA agency as needed.

§ 610.24 Responsibilities of State Technical Committees.

(a) Each State Technical Committee established under this subpart shall meet on a regular basis, as determined by the State Conservationist, to provide information, analysis, and recommendations.

(b) The State Technical Committee shall provide, in writing to the implementing USDA program agency, recommendations, data, and technical analyses, which reflect the professional information and judgment of the State Technical Committee. Such information, analyses, and recommendations shall be provided in a manner that will assist in determining matters of fact, technical merit, or scientific question.

(c) The responsibilities of the State Technical Committee include making recommendations with respect to the technical matters such as:

(1) Guidelines for evaluating petitions by agricultural producers regarding new conservation practices and systems not already described in field office technical guides;

(2) Aspects of wetland protection, restoration, and mitigation requirements;

(3) Criteria to be used in evaluating bids for enrollment of environmentally-sensitive lands in the Conservation Reserve Program (16 U.S.C. 3831-3836);

(4) Guidelines for haying or grazing and the control of weeds to protect nesting wildlife on set-aside acreage;

(5) Highly erodible land exemptions and the appeals process as it pertains to technical issues and information;

(6) Wetland and highly erodible land conservation compliance exemptions and the appeals process;

(7) Methods to address common weed and pest problems, and programs to control weeds and pests found on acreage enrolled in the Conservation Reserve Program (16 U.S.C. 3831-3836);

(8) Guidelines for planting perennial cover for water quality and wildlife habitat improvement on set-aside lands;

(9) Criteria and priorities for state initiatives under the Environmental Quality Incentives Program (EQIP) (16 U.S.C. 3839aa), including:

(i) Criteria to prioritize applications from applicants with significant statewide resource concerns outside a priority area;

(ii) Eligible conservation practices for an EQIP priority area or for significant statewide resource concerns outside a priority area;

(iii) Criteria to be used in defining a large confined livestock operation under EQIP;

(iv) Suggestions on how often producers' EQIP applications are ranked and selected;

(v) Criteria to prioritize applications from applicants with significant statewide resource concerns outside a priority area; and

(vi) Determination of cost share and incentive payment limits for participants subject to environmental requirements or with significant statewide resource concerns outside a priority area.

(10) The implementation of the Wildlife Habitat Incentives Program (WHIP) (16 U.S.C 3836a);

(11) The technical merits of proposals submitted for the Farmland Protection Program (16 U.S.C. 3830);

(12) The development of a Wetland Reserve Program (WRP) (16 U.S.C. 3837) wetland restoration plan;

(13) Statewide program guidelines applicable to WRP easement compensation, restoration planning, priority ranking, and related policy matters, 7 CFR part 1467;

(14) Identification of any categories of wetland conversion activities and conditions which are routinely determined by NRCS to have minimal effect on wetland functions and values as described in 7 CFR part 12.

(15) Conservation techniques and measures related to achieving environmental justice needs; and

(16) Types or classes of wetland that are not eligible for mitigation exemption under the Wetland Conservation provisions of 7 CFR part 12.

(d) The implementing agency reserves the authority to accept or reject the Committee's recommendations; however, the implementing USDA agency shall give strong consideration to the Committee's suggestions.

§ 610.25 Specialized subcommittees.

In some situations, specialized subcommittees, made up of State Technical Committee members, may be needed to analyze and refine specific issues. The State Conservationist may assemble certain members to discuss, examine, and focus on a particular technical or programmatic topic. The subcommittee may seek public participation; however, it is not required

to do so. Nevertheless, decisions resulting from these subcommittee sessions shall be made only in a general session of the State Technical Committee, where the public is notified and invited to attend.

Signed in Washington, DC on July 28, 1999.

Pearlie S. Reed,

Chief, Natural Resources Conservation Service.

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1728

Electric Overhead Distribution Lines; Specifications and Drawings for 24.9/14.4 kV Line Construction

AGENCY: Rural Utilities Service, USDA.

ACTION: Extension of compliance with Bulletin 50-5 or 1728F-803.

SUMMARY: In 1998 the Rural Utilities Service (RUS) updated and revised its bulletin of specifications and drawings for 24.9/14.4kV overhead distribution line construction. The bulletin, formerly named Bulletin 50-5, was renamed "RUS Bulletin 1728F-803; Specifications and Drawings for 24.9/14.4 kV Line Construction." This bulletin is incorporated by reference (IBR) in 7 CFR part 1728. As published in the **Federal Register** on December 31, 1998, at 63 FR 72102, this bulletin was approved for IBR by the Director of the Federal Register and was effective February 1, 1999.

To allow borrowers to conduct an orderly transition from the old Bulletin 50-5 to the new construction assemblies and assembly numbers of the new Bulletin 1728F-803, RUS allowed compliance to either bulletin through December 31, 1999, in a compliance notice published in the **Federal Register** on March 29, 1999, at 64 FR 14813. To prevent additional errors which may result from the year 2000 compliance transitions, RUS has extended the compliance date for borrowers to utilize construction drawings in either Bulletin 50-5 or the new Bulletin 1728F-803 until July 1, 2001. After July 1, 2001, only Bulletin 1728F-803 standard drawings shall be used.

It is anticipated that this action will also allow borrowers sufficient time to make necessary changes in engineering and accounting procedures and associated computer software.

EFFECTIVE DATE: August 3, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. James L. Bohlk, Electrical Engineer, Distribution Branch, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, STOP 1569, Washington, DC 20250-1569. telephone: (202) 720-1967. Fax: (202) 720-7491.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*), the Rural Utilities Service (RUS) amended 7 CFR Chapter XVII, Part 1728, Electric Standards and Specification for Materials and Construction, by revising RUS Bulletin 50-5 (D-803), Specification and Drawings for 14.4/24.9 kV Line Construction, and renumbered it as RUS Bulletin 1728F-803. RUS maintains a system of bulletins that contains construction standards and specifications for materials and equipment. These standards and specifications apply to system facilities constructed by RUS electric and telecommunications borrowers in accordance with the RUS loan contract, and contains standard construction units, material, and equipment units commonly used in RUS electric and telecommunication borrowers' systems.

RUS Bulletin 1728F-803 provides dimensioned drawings of standard assembly units and specifications for the construction of 24.9/14.4 kV overhead electric distribution lines. RUS changed the bulletin number from RUS Bulletin 50-5 to RUS Bulletin 1728F-803. The change in the bulletin number and reformatting was necessary to conform to RUS' new publications and directives system. This bulletin is incorporated by reference in § 1728.97. It may be purchased from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.

Dated: July 28, 1999.

Blaine D. Stockton, Jr.,

Acting Administrator, Rural Utilities Service.

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