

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

#### 7 CFR Part 611

#### Soil Surveys

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

**ACTION:** Final rule.

**SUMMARY:** The Natural Resources Conservation Service, United States Department of Agriculture, is amending soil survey regulations to reflect current law and contemporary conditions. The new rule clarifies soil survey operations and content of soil survey information; increases flexibility in disseminating soil surveys, including electronic dissemination; eliminates specific requirements to print and distribute soil survey reports; and corrects mailing addresses.

These amendments are non-controversial changes to an existing regulation and are required to bring the regulation in conformity with statute. Therefore, NRCS believes that public notice is not needed and hereby issuing a final rule.

**DATES:** Effective October 8, 2004.

**FOR FURTHER INFORMATION CONTACT:** Russell Kelsea, National Leader for Soil Survey Technical Services, National Soil Survey Center, Natural Resources Conservation Service, 100 Centennial Mall North, Lincoln, Nebraska 68508, telephone 402-437-5878, email [russ.kelsea@nssc.nrcs.usda.gov](mailto:russ.kelsea@nssc.nrcs.usda.gov).

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866

The office of Management and Budget has determined that this final rule is not a significant regulatory action as specified in Executive Order 12866.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this final rule because the Natural Resources Conservation Service is not required by 5 U.S.C. 533, or any other provision of law, to publish a notice of proposed rule making with respect to the subject matter of this rule.

#### Paperwork Reduction Act and Government Paperwork Elimination Act (GPEA)

No recordkeeping or reporting burden is associated with this rule. NRCS is committed to compliance with GPEA, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. This rule furthers the purposes of GPEA by providing for the electronic dissemination of soil survey information.

#### Executive Order 12988

This final rule meets the applicable standards of Executive Order 12988.

#### Unfunded Mandates Reform Act of 1995

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, Public Law 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 and, therefore, a statement under section 202 of the Unfunded Mandates Reform Act of 1995 is not required.

#### Discussion

Title 7, Code of Federal Regulations, part 611 implements authorities provided under several public laws. Public 74-46 (16 U.S.C. 590a-590f, 590g) authorizes USDA to conduct soil surveys and publish the results of such surveys. Public Law 89-560 (42 U.S.C. 3271-3274) directs USDA to make soil surveys available to meet the needs of States and other public agencies in connection with community planning or natural resource development.

Since 1968, Public Law 90-620 (at 44 U.S.C. 1342) specified that USDA would publish soil survey reports, printed by the Government Printing Office and bound in paper covers. However, that provision was repealed in 1996 by

Section 384 of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104-127.

Given the repeal of 44 U.S.C. 1342, there is nothing in law that requires printing of soil survey information in the traditional, paper-bound, published soil survey format. Rather, 42 U.S.C. 3271 specifies that USDA should make soil survey information available to meet the needs of States and other public agencies. Many States and other agencies now require soil survey information in electronic format for use in geographic information systems or other database systems. Therefore, the existing rule in 7 CFR 611 is unnecessarily restrictive and is hereby being updated to reflect current technologies, user needs, and changes in law. The new rule does not prohibit USDA from printing soil surveys nor does it require that NRCS change operational procedures or practices. Instead, this final rule provides USDA with flexibility to reduce costs, improve services, and meet e-Government initiatives.

#### List of Subjects in 7 CFR Part 611

Soil conservation.

■ Accordingly, for the reasons stated in the preamble, 7 CFR part 611 is revised to read as follows:

### PART 611—SOIL SURVEYS

#### Subpart A—General

Sec.

611.1 Purpose and scope.

611.2 Cooperative relationships.

#### Subpart B—Soil Survey Operations

611.10 Standards, guidelines, and plans.

611.11 Soil survey information.

#### Subpart C—Cartographic Operations

611.20 Function.

611.21 Availability of aerial photography.

611.22 Availability of satellite imagery.

**Authority:** 16 U.S.C. 590a-590f, 590g, 42 U.S.C. 3271-3274.

#### Subpart A—General

##### § 611.1 Purpose and scope.

(a) This part sets forth policy on soil survey operations of the Natural Resources Conservation Service (NRCS).

(b) NRCS is responsible for soil survey activities of the U.S. Department of Agriculture (USDA). A soil survey provides:

(1) An orderly, on-the-ground, scientific inventory of soil resources according to their potentialities and problems of use; and

(2) Information about each kind of soil in sufficient detail to meet all reasonable needs of farmers, agricultural technicians, community planners, engineers, and scientists in planning and transferring the findings of research and experience to specific land areas.

#### **§ 611.2 Cooperative relationships.**

(a) Soil surveys on nonfederal lands are carried out cooperatively with State agricultural experiment stations and other State agencies. The cooperative effort is evidenced in a memorandum of understanding setting forth guidelines for actions to be taken by each cooperating party in the performance of soil surveys. Similar cooperative arrangements exist between NRCS and other Federal agencies for soil surveys on Federal lands.

(b) Arrangements for nonfederal financial participation in the cost of soil surveys may be made with States, counties, soil conservation districts, planning agencies, and other local groups.

### **Subpart B—Soil Survey Operations**

#### **§ 611.10 Standards, guidelines, and plans.**

(a) NRCS conducts soil surveys under national standards and guidelines for naming, classifying, and interpreting soils and for disseminating soil survey information.

(b) A soil survey Memorandum of Understanding (MOU) is prepared prior to the start of each soil survey project, or a work plan is prepared for soil survey maintenance activities. These documents provide specific details and technical specifications to support the interpretive and data needs of the area to be surveyed. The MOU is signed by representatives of NRCS, land grant universities, and in some States representatives of other State agencies. Federal land administering agencies also sign the MOU if federal lands are included in the survey.

#### **§ 611.11 Soil survey information.**

(a) *Availability.* NRCS disseminates soil survey information to the public by any of the means described in paragraph (d) of this section. NRCS makes soil survey information available as soon as is practicable following field work or other soil survey activity that provides new soil survey information.

(b) *Content.* Soil survey information conforms with standards and meets the needs identified in the soil survey MOU or work plan as described in § 611.10 of

this part. Soil survey information includes: (1) Soil maps that delineate the location and extent of various soil areas;

(2) Soil characteristics for each of the soil areas shown on soil maps;

(3) Interpretations of the soil characteristics; and

(4) Information about the source, version, and applicability or limitations associated with the soil survey information.

(c) *Maintenance.* Soil survey information is reviewed on a periodic basis to ensure that the information continues to meet evolving needs.

(d) *Distribution.* Soil survey information is disseminated to the public through electronically accessible maps and reports, electronic access to data files, or printed documents. To the extent practicable, as limited by commonly accepted technology, soil survey information is disseminated in electronic form.

(e) *Resource conservation plan data.* Information prepared specifically for use in developing resource conservation plans for soil conservation district cooperators is considered confidential. Soil maps and interpretations prepared for this use will not be made available to others without the consent of the landowner as well as the district governing body. However, soil survey information from which the conservation plan was developed may be disseminated as described in paragraph (a) of this section.

### **Subpart C—Cartographic Operations**

#### **§ 611.20 Function.**

The NRCS National Cartography and Geospatial Center provides cartographic services needed to carry out NRCS functions. Cartographic services include general cartography, photogrammetry, aerial photography, planimetric and topographic mapping, drafting, and specialized types of reproduction.

#### **§ 611.21 Availability of aerial photography.**

The National Cartography and Geospatial Center obtains necessary clearance for all aerial photography for NRCS. New aerial photography of designated areas in the United States is obtained yearly by NRCS through competitive contracting. This photography is obtained only after it is determined that imagery of these areas available from other sources does not meet NRCS scale and quality requirements. Orders for reproductions of NRCS aerial photography are subject to the fee schedule cited in § 1.2(b) of this title. Order reproductions from the National Cartography and Geospatial

center: USDA—National Resources Conservation Service; P.O. Box 6567, FWFC—Bldg. 23; 501 W. Felix Street; Forth Worth, Texas 76115.

#### **§ 611.22 Availability of satellite imagery.**

Cloud-free maps of the United States based on imagery received from a satellite are prepared and released to the public by NRCS. The maps offer the first image of the United States not obscured by clouds or distortions. Orders or requests for information should be directed to the National Cartography and Geospatial Center, USDA—Natural Resources Conservation Service; P.O. Box 6567, FWFC—Bldg. 23; 501 W. Felix Street; Forth Worth, Texas 76115. Orders are subject to the fee schedule cited in § 1.2(b) of this title.

Signed in Washington, DC on September 23, 2004.

**Bruce I. Knight,**

*Chief, Natural Resources Conservation Service.*

[FR Doc. 04–22723 Filed 10–7–04; 8:45 am]

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 71**

[Docket No. FAA–2004–18819; Airspace Docket No. 04–ACE–45]

#### **Modification of Class D Airspace; and Modification of Class E Airspace; Grand Island, NE**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; request for comments, correction.

**SUMMARY:** This action corrects a direct final rule; request for comments that was published in the **Federal Register** on Wednesday, September 22, 2004, (69 FR 56690) [FR Doc. 04–21226]. It corrects an error in the legal description of the Class E airspace area extending upward from 700 feet above the surface at Grand Island, NE.

**DATES:** This direct final rule is effective on 0901 UTC, January 20, 2005.

**FOR FURTHER INFORMATION CONTACT:** Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust Street, Kansas City, MO 64106; telephone: (816) 329–2524.

#### **SUPPLEMENTARY INFORMATION:**

#### **History**

*Federal Register* Document 04–21226, published on Wednesday, September