

PART 601 – Regulatory Development and Publication

Subpart A – Introduction

Amended March 2024

601.0 Purpose

This handbook establishes policy and procedures for the development, oversight, and coordination of NRCS rules and notices published in the Federal Register.

601.1 Background

For detailed background and policy on rules and notices to be published in the Federal Register, please see Title 340 General Manual, Part 410 “Regulatory Policy.”

601.2 Application

- A. Employees at NRCS national headquarters (NHQ) must follow this guidance when requesting agency internal, departmental, and OMB review and clearance, as applicable, for the publication of—
 - 1. Advance notices of proposed rulemaking.
 - 2. Proposed, interim, final, and direct final rules.
 - 3. Rule amendments.
 - 4. Notices of requests for proposals, requests for information, extension of comment periods, meeting announcements, information collection activities, or changes to the national handbook of conservation practices.
 - 5. Any other actions not specified in this section but prepared by NHQ for the Federal Register.
- B. Employees at state offices must also follow this guidance when submitting to the Farm Production and Conservation (FPAC) Federal Register liaison officer any non-rulemaking documents that are approved and signed by the state conservationist or designee for publication. Such documents include notices about—
 - 1. Proposed changes to state technical guides.
 - 2. The intent to prepare or the availability of environmental impact statements and environmental assessments.
 - 3. Findings of no significant impact for environmental assessments.

4. Any other notices or announcements not specified in this section but prepared by state offices for the Federal Register.

601.3 References

- A. NRCS regulatory activity must adhere to the following guidance:
 1. [Administrative Procedure Act](#) (5 U.S.C. § 553)
 2. [Congressional Review Act](#) (5 U.S.C. §§ 801, 802–7, and 808)
 3. [Departmental Regulation 1512-001](#), “Regulatory Development and Review”
 4. [Executive Order 12866](#), Regulatory Planning and Review
 5. [E-government Act of 2002](#)
 6. [eRulemaking](#)
 7. [Federal Register Document Drafting Handbook](#)
 8. [Federal Plain Language Guidelines](#)
 9. [Paperwork Reduction Act](#) (44 U.S.C. Ch. 35)
 10. [Farm Bill Exemption from PRA](#) (16 U.S.C. § 3846)

601.4 Definitions

- A. **Advance Notice of Proposed Rulemaking.** A regulatory action issued before an agency is ready to issue a notice of proposed rulemaking. It is used to obtain public input on the necessity for rulemaking or public participation in the development of a notice of proposed rulemaking.
- B. **Amendment.** A specific change (**not** a correction) being made to the Code of Federal Regulations (CFR) or a recently published rule.
- C. **Benefit-Cost Assessment.** A document that assesses the expected benefits and costs associated with a proposed federal action or regulation.
- D. **Clearance.** Documents are cleared by signature indicating approval of the current draft under review.
- E. **Correction.** Refers to an action that fixes a clerical or typographical error in a recently published document.
- F. **Civil Rights Impact Analysis.** A document required for federal actions or regulations that may have a significant social or civil rights impact. These analyses are needed for administrative and management decisions that potentially will impact employees or customers of NRCS programs.
- G. **Direct Final Rule.** A regulatory action that expedites noncontroversial changes to an existing regulation. Rules that are believed to be noncontroversial and unlikely to result in adverse comments may be published in the Federal Register as direct

final rules. If the agency receives a written adverse comment, direct final rules must be withdrawn and a notice of withdrawal must be published.

- H. **Docket.** A collection of documents related to a rulemaking or other action.
- I. **Economically Significant.** A regulatory action likely to result in a rule that may have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. The Under or Assistant Secretary have oversight over these actions.
- J. **Environmental Assessment.** A concise public document evaluating the potential environmental impacts of a proposed federal action that is used to inform decision-making and provide public disclosure of decisions made by a federal agency.
- K. **Final Rule.** A regulatory action that makes effective a regulatory change. The final rule includes a statement of the basis and purpose for the rule, a discussion of the comments received, the agency's response to comments received, and the reasons for the agency's response to comments received.
- L. **Interim Rule.** A final rule that is not preceded by a notice of proposed rulemaking (NPRM), but that provides the public an opportunity to participate in the rulemaking proceeding after the final rule has been published. Interim rules may only be used when the agency for good cause finds (and incorporates the findings and a brief statement of the reasons for the findings in the interim rule) that an NPRM would be impracticable, unnecessary, or contrary to the public interest.
- M. **Major (as defined by the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994).** A regulatory action that the Secretary of Agriculture estimates is likely to have an annual impact on the U.S. economy of at least \$100 million in 1994 dollars, and the primary purpose of which is to regulate issues of human health, human safety, or the environment. All major regulatory actions are economically significant, but not all economically significant regulatory actions are major. Under the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, USDA must conduct an analysis for major regulatory actions, but is not required to conduct an analysis for economically significant actions.
- N. **Major (as defined by the Small Business Regulatory Enforcement Fairness Act of 1996, Subtitle E, Congressional Review).** A regulatory action that is likely to result in a rule that has an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. This definition of major is similar to the definition of economically significant (see paragraph I of this

section) and of major as associated with risk assessment in the Federal Crop Insurance Reform and USDA Reorganization Act of 1994 (see paragraph M of this section). This definition of major only applies to determinations under subtitle E of the Small Business Regulatory Enforcement Fairness Act regarding congressional review of agency rules. The Under or Assistant Secretary will have oversight over these actions.

- O. **Not-Significant (also referred to as nonsignificant).** An action for which an agency head has oversight and does not trigger any effects as may be caused by significant, economically significant, or major rules.
- P. **Notice (Routine Notice).** A nonregulatory action that is published in the Federal Register to inform the public of planned meetings, public hearings, extensions of comment periods, or other information or actions that do not implement, interpret, or prescribe law or policy or describe procedure or practice requirements. Notices do not amend the CFR. Notices are also referred to as “non-rulemaking actions.”
- Q. **Notice of Proposed Rulemaking (NPRM).** A regulatory action issued to inform the public that an agency is proposing a regulation. It contains either the terms or substance of the proposed rule, a description of the subjects and issues involved, legal authority, and a statement of how and when the public can participate in the rulemaking process. NPRMs normally provide the public with a 60-day period to submit written comments regarding the NPRM.
- R. **Regulatory Action.** Any substantive action by an agency published in the Federal Register that promulgates or is expected to lead to the promulgation of a final rule or regulation. This is also referred to as a rulemaking action.
- S. **Regulatory Classification.** Terms used to categorize regulatory actions by the degree of oversight that will occur. These terms are “not-significant,” “significant,” “economically significant,” “major (as defined by the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994),” and “major (as defined by subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996).” OMB provides the final classification for regulatory actions.
- T. **Review.** Indicates that a documents or collection of documents are being evaluated for content, quality, consistency, legal sufficiency, or format.
- U. **Rule or Regulation.** An agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describe the procedure or practice requirements of an agency. The following are excluded from notice and comment rulemaking:
 - 1. Formal rulemaking (rules required by statute to be made on the record after opportunity for an agency hearing).
 - 2. Regulations issued with respect to military or foreign affairs functions of the United States.
 - 3. Regulations related to agency organization, management, or personnel.

- V. **Significant.** A regulatory action for which an Under or Assistant Secretary has oversight and may result in a rule that—
 1. Creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency.
 2. Materially alters the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof.
 3. Raises novel legal or policy issues, arising out of legal mandates, the President’s priorities, or the principles set forth in Executive Order 12866.
- W. **Tribal Impact Statement.** A document prepared during rule development that certifies the expected tribal impact and consultation efforts during the rulemaking process.
- X. **Workplan.** The document that initiates and describes the regulatory action, including objectives, alternatives, and expected results. The workplan is used to determine the regulatory classification of the regulatory action and designate the appropriate level of oversight.

601.5 Abbreviations

- A. **BCA.** Benefit-cost analysis
- B. **CCC.** Commodity Credit Corporation
- C. **CRIA.** Civil rights impact analysis
- D. **FDMS.** Federal Docket Management System
- E. **FSA.** Farm Service Agency
- F. **NEPA.** National Environmental Policy Act
- G. **FPAC.** Farm Production and Conservation mission area, USDA
- H. **OBPA.** Office of Budget and Program Analysis
- I. **OCE.** Office of the Chief Economist, USDA
- J. **OCIO.** Office of the Chief Information Officer, USDA
- K. **ASCR.** Office of the Assistant Secretary for Civil Rights, USDA
- L. **OGC.** USDA Office of the General Counsel
- M. **OIRA.** Office of Information and Regulatory Affairs, OMB
- N. **OSEC.** Office of the Secretary, USDA
- O. **OMB.** Office of Management and Budget
- P. **OTR.** Office of Tribal Relations, USDA
- Q. **RIN.** Regulatory identifier number
- R. **ROCIS.** Regulatory Information Service Center of the General Services Administration and OIRA Consolidated Information System