

additional time and move forward only with the ARPA and OIG changes in this final rule. FCIC has determined that it would impose an undue burden to implement those changes for which it needs additional time to respond to comments in the middle of a crop year. Further, it would also adversely affect those producers who plant both fall and spring planted crops to have different contract terms. All comments received on the proposed provisions that are not included in this final rule will be addressed in a subsequent final rule to be effective for the 2005 crop year.

The comments received that are related to the portions of the proposed rule addressed in this final rule and FCIC's responses are as follows:

Comment: A few commenters stated that the Basic Provisions must be clear and unambiguous, and that they also should be revised only in accordance with the best analysis available from the combined experience of program administrators, approved insurance providers and active agricultural producers. The commenters stated that any of the several inclusive processes permitted by law for the material revision of such a fundamental regulation would have been preferable to RMA's unilateral pronouncement. They complain that they have difficulty defending a policy that they did not help develop.

Response: Many of the changes that were originally proposed arose from discussions with the insurance companies, producer groups, OIG, the United States Attorney's offices, and other interested parties. However, to utilize the negotiated rulemaking process that the commenter proposes would drastically delay the process and hinder efforts to make meaningful and necessary program changes in a timely manner. The defense of the policy terms is dependent on the language of the policy, not the drafter. Through notice and comment, FCIC permits the insurance providers to have input into the specific language of the policy. Further, 7 CFR part 400, subpart X permits insurance providers and any other interested party to obtain an interpretation of policy provisions.

Comment: A commenter urged FCIC to not make any changes in the Basic Provisions at this time.

Response: The provisions related to ARPA must be implemented. However, as stated above, FCIC has received such significant comments on other provisions that it is taking the additional time needed to fully evaluate the comments and take appropriate action.

Comment: Many commenters requested an extension of the comment period.

Response: In response to such comments, FCIC extended the comment period an additional fifteen days.

Comment: Many commenters expressed concerns regarding implementation of the rule in the middle of a crop year. They also expressed concerns regarding the legality of making the rule effective upon filing with the **Federal Register**.

Response: As stated above, FCIC has elected not to implement the rule in the middle of the crop year. With respect to the effective date, FCIC will be in compliance with the applicable laws.

Comment: Many commenters noted that the amount of work required of the insurance companies delivering and servicing these policies will increase significantly from the amount of work currently required. It claims that if more is being required of the companies, they need to be compensated accordingly. Another commenter expressed concerns regarding the increased workloads and program delivery costs.

Response: FCIC agrees some additional work will be required to administer the new provisions contained in this final rule. However, most of these changes in this final are statutorily mandated so FCIC has no choice but to implement these provisions. Further, it is also anticipated that companies will realize significant savings as a result of the new limitations on multiple crop benefits on the same acreage, which may also reduce the work the insurance providers must currently devote to adjusting these claims. Further, Congress has placed a cap on the amount of money that insurance providers can receive to pay for their administrative costs. Therefore, FCIC does not have the authority to increase the compensation paid to the insurance providers.

Comment: Many general comments were received regarding added program complexity and unclear definitions, terms and conditions.

Response: Since no specific provisions were discussed, FCIC is unable to respond directly. However, FCIC did receive similar comments regarding specific provisions and has responded to those concerns below.

Comment: A few commenters requested their comments to the Common Crop Insurance Policy, Basic Provisions be considered for the Group Risk Plan (GRP) proposed provisions where applicable.

Response: FCIC has considered all the comments to the Common Crop Insurance Policy, Basic Provisions as if

they are applicable to the GRP provisions. Where applicable, in response to the comments, FCIC has made the same or similar changes in both the GRP provisions and the Basic Provisions.

Comment: A commenter stated the "first," "second" and "double" crop provisions contained in ARPA should not apply to the GRP policy. It stated that National Agricultural Statistics Service (NASS) records are based on their own criteria, and are consistent from year to year in methodology. The commenter added that, from an administrative standpoint, including this language in the GRP policy removes much of the administrative ease that has been associated with GRP and that administrative ease has been one of GRP's biggest selling points to many insureds.

Response: Section 108 of ARPA does not make any distinction between plans of insurance. It simply requires that any loss for a first crop insured under the Act be reduced by 65 percent if a second crop is planted on the same acreage in the same crop year and suffers an insurable loss. Since ARPA does not provide an exception for GRP policies, no change has been made.

Comment: A few commenters stated beyond the definition itself, all references to "good farming practices" in the GRP policy need to reflect the provisions of section 123 of ARPA. For instance, in § 407.9, section (3)(c)(2), the statement is made that insurance will not be available if good farming practices are not followed, with the unqualified warning that if "any farming practice is not established or widely used in the area, it may not be considered a good farming practice." In this instance, there is not even an attempt to reflect the ARPA provision in question. This sentence is clearly deficient and at odds with the statute and must be changed to comply with section 123 of ARPA.

Response: Since the definition of "good farming practices" in the GRP policy specifically references both sustainable and organic farming practices as "good farming practices," it is not necessary to repeat these terms wherever "good farming practices" is used in this rule. FCIC agrees the reference to "widely used" should be removed and has revised section 3(c)(2) accordingly. A similar reference has also been removed from the definition of "good farming practices." These references were removed because "common usage" is not a useful measure to determine whether a practice is acceptable. The more accurate measure is whether the