

practice is generally recognized as agronomically sound since generally recognized is a judicially determined objective standard.

Comment: A few commenters asked if it is intended that organic crops will be insurable under the GRP policy. If so, the commenter questioned whether they will be referred to as "organic," or simply fall under the generic heading of that crop. The commenters states that if they will not receive "special" or distinct treatment under GRP, there is no need for separate references to "organic" in the GRP policy. The commenters also stated the definition of "good farming practices" should be the same in the GRP policy and the Basic Provisions. The commenters also asked that the Corporation include the regulatory sections in 7 CFR part 400, subpart J if it extends or re-opens the comment period on the crop insurance rules.

Response: Although organic farming practices will be insured under the GRP policy, the organic crop will be insured using the same NASS yield and expected market price as all other crop practices. Therefore, organic crops are not insured separately from any other type of the same crop. The definitions of "good farming practices" have been made consistent to the extent possible in both the GRP policy and the Basic Provisions. The only differences are due to the fact that GRP is not a production based policy. At the time that the comment period for the proposed rule was extended, FCIC did not know that there was an issue regarding the reconsideration process published in 7 CFR part 400, subpart J. However, now that FCIC has considered all the comments, it realizes that amendments are required to subpart J as stated below. Since changes to subpart J were made only in response to comments received, an additional comment period was not required.

Comment: Several commenters recommended adding a definition of "actual production history (APH)." Some of the comments suggested the definition cross reference 7 CFR part 400, subpart G.

Response: FCIC agrees with the comments and has added a definition of "actual production history (APH)."

Comment: Several commenters recommended adding the definition of "area." Some of these commenters stated a definition is warranted because it is possible to interpret "area" to be surrounding townships, sections, etc., and the term could mean something different depending on the region of the country where the crop is grown. Another commenter stated that a

definition is needed since the term "area" is used throughout the policy. Another commenter stated it is not clear who determines the area. An additional commenter stated the use of the term "area" should be consistent throughout the policy. One commenter recommended the definition take into consideration a three-mile perimeter from the unit and consider the soil, climate, water, and topographic conditions and other circumstances substantially similar to those in the unit.

Response: FCIC agrees the term "area" should be defined. A definition has been added for "area," which encompasses all usages of the term in the policy. The insurance provider is responsible to determine the area in accordance with the definition. The definition of "area" cannot be limited to a certain size because many usages of the term require that the area have same characteristics, which may not fit within the suggested size.

Comment: A commenter recommended adding the definition of "average yield." A commenter stated the definition of "average yield" is verbatim with the definition of "approved yield," although as used in the program the two terms have very different meanings. The commenter recommended revising the definition of "average yield" and to consistently use each term in a manner consistent with its respective definition. Several commenters recommended revising the definition of "average yield" by changing "* * * including any adjustments * * *" to "* * * prior to any adjustments * * *" and/or including a reference to the average yield as the "preliminary" APH yield, as used in the Crop Insurance Handbook ("CIH"). A commenter recommended reconsidering the reference to section 36 in the definition of "average yield" since "average yield" is used in rate calculations for yield floors as well.

Response: The definition of "average yield" was included in the proposed rule. FCIC agrees the definition of "average yield" should not be the same as the definition of "approved yield." The definitions of "average yield" and "approved yield" have been revised in this final rule such that the approved yield is the yield after it has been adjusted in accordance with the policy provisions. The average yield is the yield prior to any such adjustments. A reference to "preliminary APH yield" is not included in the final rule because it is not used in the policy. If the term is used in the CIH, it should be defined there. FCIC agrees the reference to section 36 does not include all adjustments that may be made prior to calculating approved APH yields and

has revised the definition of "average yield" to include other adjustments.

Comment: Several commenters indicated buffer zones cannot prevent drift and unintended contact, and, at best, can only minimize contamination. Some of the commenters recommended revising the definition of "buffer zone" by replacing the words "prevent the possibility" with "minimize the possibility." Other commenters recommended FCIC accept any buffer zone approved by an organic farm's accredited certifier, used in any certified organic operation, or included in an organic plan.

Response: FCIC agrees buffer zones cannot always prevent contamination of organic acreage and has replaced the word "prevent" with the word "minimize" in the definition of buffer zone. FCIC agrees that buffer zones should be those included in the organic plan that have been approved in writing by an accredited certifier. However, FCIC cannot accept buffer zones that are used in any certified organic operation, unless such buffer has been approved by the certifying agent, to avoid any conflicts within the policy. FCIC has clarified the definition accordingly.

Comment: A commenter asked how a company, agent or adjuster will know if the certifying agent is "accredited by the Secretary."

Response: The company, agent or loss adjuster can determine whether a certifying agent is accredited by the Secretary by accessing the list of accredited certifying agents on the National Organic Program Web site at <http://www.ams.usda.gov/nop/CertifyingAgents/Accredited.html>.

Comment: A few commenters recommended defining "commonly used."

Response: The phrase "commonly used" has been removed from this rule, including the proposed definition of "good farming practices," because FCIC has determined that it is not a useful measure to determine whether a practice is or is not acceptable in an area. The more accurate measure is whether the practice used is generally recognized as agronomically sound since generally recognized is a judicially determined objective standard.

Comments: Many comments were received regarding the definition of "cover crop." The comments are as follows: (1) Several commenters recommended revising the definition to indicate the effect on coverage of haying, grazing or otherwise harvesting the cover crop. The commenters stated it is important to clarify commercial use of a cover crop can affect coverage for other crops on the same acreage; (2) A