

other parts of the policy. FCIC does not agree with the comment regarding temporal and agronomic conditions. Climatic and agronomic conditions such as soil type and annual rainfall are not temporal. Further, even localized weather conditions should be considered in determining whether a production method is a good farming practice because they have an impact on the growth of the crop. References to weather and agronomic conditions have been removed from the definition of "good farming practices" and placed in the definition of "area." FCIC agrees what constitutes "farming practices" should be included in the definition and has revised the definition to explain they are production methods utilized to produce the insured crop. The comment regarding the inference that only sustainable conventional practices are recognized as good farming practices has been clarified to distinguish between conventional, sustainable, and organic agricultural practices. Since insurance providers will be making these determinations, the timing should be no different than under the previous definition under most circumstances.

*Comment:* Many commenters had the following statements and questions regarding the definition of "good farming practices:" (1) Substituting FCIC and NRCS as arbiters in place of Extension does little to rectify the problem, and they recommend greater clarity about how good farming practice decisions will be made and by whom, and how they will be communicated to all parties; (2) Recommend clarifying what "recognized by FCIC" means; (3) The definition of "good farming practices" does not include the "common usage" test, but looks for practices that are compatible with the agronomic and weather conditions in the area—it is too vague to be meaningful to producers; (4) The definition misapprehends the role of accrediting agencies under the National Organic Program because they do not "recommend" farming practices; (5) The most effective means of enhancing the integrity of the Federal crop insurance program and reducing producer fraud and abuse would be to establish a totally objective "good farming practices" standard, and one that can be ascertained very quickly in all circumstances; (6) A question was asked regarding whether FCIC is changing what practices are insurable with the new definition; (7) A listing of "good farming practices" is necessary and producers must know where to find the listing since the insured has the right to know which practices are recognized by

FCIC; (8) A question was asked whether FCIC will publish a listing of "good farming practices" and will the information be contained in the Special Provisions; (9) It will be a huge task to list the thousands of good farming practices and there is no provision for producers to request an appeal if a certain practice is not listed; (10) The reference to "produce at least the yield used to determine the production guarantee" may cause confusion in replant situations since planting after the final planting date results in yield reductions; (11) It is necessary to establish a procedure for quick turn around time for the many questions companies will receive from policyholders; (12) A question was asked what process will be used to obtain approval of a farming practice from FCIC and is it the obligation of the insured, as opposed to the insurance provider, to obtain a decision; (13) A question was asked how will the insured and insurance provider know, in advance, what FCIC considers to be good farming practices for a given county; (14) It is necessary for producers to know, up front, which practices FCIC will accept and it is necessary for FCIC to publish something by crop, state and county by a certain date; (15) FCIC should not have the ability to second-guess after the fact, rather its determinations must be made known up front at the same time growers are faced with the situations that cause disputes; (16) Add a review process for "good farming practices" determinations that requires the producer to be given an opportunity to review and respond to the evidence available to or considered by the agency staff person who made the original adverse determination; (17) FCIC does not have sufficient knowledge to know what sustainable and organic practices should be considered good farming practices; (18) FCIC failed to capture the intent of Congress to reduce discrimination against producers using sustainable and organic farming practices; and (19) "Common usage" is a poor proxy for "scientific soundness," the criteria set by Congress and indicated reference to common usage recurs throughout the rule, including §§ 407.9(3)(c)(2) and 457.8(b)(2).

*Response:* FCIC has revised the provision and now the insurance providers will be making the determinations based on what agricultural experts determine are generally recognized production methods. FCIC has clarified that it will only make such determinations if asked to do so. FCIC has deleted the reference

to "recognized by FCIC" so no clarification is needed. FCIC has clarified the provisions by using weather, agronomic and other conditions to define the area. With respect to good farming practices, FCIC has clarified that the key is whether the crop will make normal progress toward maturity and produce the specified yield. Such determinations are made by agricultural experts based on generally recognized production methods. FCIC agrees that the accrediting agency may not recommend farming practices. However, in the organic plan, the accrediting agency must approve the production methods to be used by the producer. FCIC has revised the definition to add objectivity and allow determinations to be made as expeditiously as possible. FCIC has not changed the practices that are insurable with the new definition. It has simply clarified what constitutes a good farming practice. Insurable practices are designated in other parts of the policy. Since FCIC will no longer be making the determinations of good farming practices, it does not intend to develop or provide a listing of good farming practices. As pointed out by commenters, the large number of farming practices in use would make such a list extremely difficult, if not impossible to produce and maintain. Determinations must be made on a case by case basis based on individual farming operations. FCIC has revised the definition to account for late planted acreage. Since insurance providers will be making the determinations, the turn around time should be no different than under the current provisions. Since the definition has been revised, comments regarding decisions made by FCIC are no longer applicable for a majority of the producers. FCIC intends to issue procedures for those situations where FCIC is asked to render a determination. The reconsideration process requires FCIC to review any initial determination made by the insurance provider if it is disputed by the producer. However, initial determinations will be made by the insurance provider and can be made up front at the request of the producer. In the reconsideration process, the producer will have an opportunity to review and respond to the information upon which the initial determination of good farming practices has been made. Decisions made by FCIC in the reconsideration process will not be subject to further administrative appeal. FCIC agrees neither it nor the insurance providers have all the knowledge necessary to determine good sustainable or organic farming practices and,