

the use of written agreements would be discriminatory against producers who use good farming practices that are not commonly used in the area, such as some sustainable practices. Therefore, this change has not been made. FCIC has revised the definition of "good farming practices" to include similar language to the recommended language regarding organic farming.

*Comment:* Several commenters stated the definition of "prohibited substance" is incomplete because it does not specify what list will be used to determine "prohibited substances." The commenters recommended clarifying if the listing of prohibited synthetic substances and the list of acceptable natural substances attached to the National Organic Program (NOP) will be used or if other lists will be used. Some commenters recommended clarifying that the list of prohibited synthetic substances and the list of acceptable natural substances of the NOP are the lists to be used.

*Response:* FCIC has revised the definition to include a reference to the lists of prohibited and acceptable substances published at 7 CFR part 205.

*Comment:* A commenter asked what the difference is between "certified organic," "organic" and "transitional organic" acreage, and recommended either defining "organic acreage" or removing it from the definition of "prohibited substance."

*Response:* The proposed provisions define "certified organic acreage" and "transitional acreage." The term "transitional organic acreage" is not used nor defined in the provisions. The difference between transitional acreage and certified organic acreage is that transitional acreage may have organic practices used but it has not met the requirements to be considered certified organic acreage by the certifying agent. FCIC agrees with the commenter that reference to "organic acreage" should be removed from the definition of "prohibited substance" because the term "organic acreage" could be misleading and is not defined or used elsewhere in the provisions. Therefore, FCIC has revised the definition of "prohibited substance" to remove the reference to "organic acreage."

*Comment:* Several comments were received regarding the proposed definition of "second crop." The comments are as follows: (1) A commenter suggested the defined term state the significance of summer fallow and continuous cropping practices; (2) A commenter stated the concluding sentence should be eliminated because a cover crop planted after a first crop should not be considered a second crop

when it is hayed, grazed or otherwise harvested; (3) A commenter stated the definition needs to be made consistent with the definition of "cover crop" and "first crop;" (4) Several commenters stated the word "immediately" in the first sentence should be deleted as it suggests a specific time to plant the second crop and is ambiguous; (5) Another commenter recommended defining the term "immediately;" (6) A commenter suggested clarifying multiple crops on the same acreage are approved provided the actuarial table allows for more than one crop on the same acreage in the same year; (7) Several commenters stated the policy does not take into account an initial crop that is not insured removes moisture and nutrients from the soil, which increases the yield risk of any following crop; (8) A few commenters stated the phrase "hayed, grazed, or otherwise harvested" should be used to be consistent with other areas in the policy; (9) A few commenters stated the definition encroaches on the definition of "cover crop" by implying a cover crop can be hayed, grazed or harvested (not remain "in place"); (10) A commenter stated "will be" is an errant change in tense; (11) A commenter suggested clarifying how a second crop can be the same crop as a first crop and if the second crop has to be insured or not; (12) A few commenters stated the definitions would allow two uninsured crops and then a "first crop" which might not meet the requirements of the definition of "good farming practice;" (13) A commenter suggested clarifying how crops with multiple planting periods will be handled; and (14) A commenter stated the definition may not be clear to a layman.

*Response:* FCIC does not agree it is necessary to state the significance of summerfallow or continuous cropping practices in the definition of "second crop." Section 108 of ARPA does not make any distinction with respect to the farming practice used. All that is material is whether the second crop was planted for harvest. For the purpose of section 108 of ARPA, FCIC has determined that harvest is the removal of crop from the acreage by any means. Since haying and grazing removes the crop from the acreage, it is considered harvested. However, FCIC has clarified that for the purpose of determining the end of the insurance period, harvest of the crop will be as defined in the Crop Provisions, not as determined in the definition of "second crop." FCIC has revised these definitions to ensure that they are not in conflict with one another. FCIC agrees the word

"immediately" could be misinterpreted and has replaced it with the "next occurrence of planting." Since the second crop is not required to be insured, there should be no reference to its insurability. Section 108 of ARPA does not consider the effect of the first crop on the acreage in determining whether the next crop planted is considered a second crop. As stated above, if the initial crop planted is not insured, it is not a first crop. If the initial crop is insured, the only determinant is whether the next crop was planted for harvest. However, removal of moisture and nutrients from the soil by the first crop or any previously planted uninsured crop, or whether the producer used good farming practices must still be considered in determining whether the crop is insurable. There are several provisions that limit insurance on multiple crops and, if planting multiple crops on the same acreage is considered to be a poor farming practice, then no insurance would be provided for any crop that is planted using a poor farming practice. FCIC has revised the provisions to consistently use the phrase "hayed, grazed or otherwise harvested" throughout the Basic Provisions. However, the definition has been revised to make it clear that for the purposes of determining the end of the insurance period, the definition of "harvest" in the Crop Provisions controls. As stated above, FCIC has revised the definitions of "second crop" and "cover crop" to ensure that they are consistent with each other. However, a producer may still elect to hay, graze or otherwise harvest a cover crop. The definition of second crop is intended to provide the conditions under which a cover crop will be considered to be a second crop. The definition has been revised to make it clearer that planting of the same crop twice on the same acreage in the same crop year may be considered as both a first and second crop if replanting is not required by the policy. FCIC agrees the definition should be modified to indicate the second crop does not have to be insured to be considered a second crop and has modified the definition accordingly. The revisions made in response to the comments clarify the definition. Crops with multiple planting periods may qualify as first and second crops and will be administered accordingly. For example, if a crop is planted in one planting period and the same acreage is subsequently planted to the same crop in the next planting period, and replanting is not required under the policy, the first and second crop