

Response: FCIC agrees the provision should reference the applicable T-yields and has revised sections 36(a) and (c) accordingly. With respect to the reference to T-yields, the Crop Insurance Handbook will be modified to conform with the Basic Provisions.

Comment: A few commenters suggested the parenthetical example in section 36(c) be rewritten to make the intended point that the substitute yields may vary by year. They believe as written, the language suggests the election of substitute yields is by year (rather than by crop/county with actual implementation by database).

Response: Section 36(a) and (c) clearly state that the producer may elect to exclude any individual qualifying actual yield for a crop year in the database. However, appropriate changes have been made to clarify that a crop year's individual actual yield is replaced with a percentage of the corresponding crop year's applicable T-yield.

Comment: Several commenters commented on section 36(d). A few of the commenters stated the language indicates the yield substitution election is not reversible. They believe this is contrary to current procedure, which allows the continuous Yield Adjustment Election to be elected and canceled on a crop/county basis, and also provides for the insured to decide whether to implement yield substitution by database each year the election is in place. The commenters stated an individual database under the election may have the best approved Actual Production History yield using substitute yields one year, but then might be better with a yield floor the following year, however as written, this now-irreversible election would preempt any subsequent use of yield floors (and "cupped" yields, which currently are preempted only the year following a year when substitute yields were used) until all substituted yields have dropped off the database. They believe an already complicated procedure for policyholders and agents would become even more difficult as policyholders would have to try to guess the long-term advantages and disadvantages of choosing this election. They recommended this policy language be revised to reflect current Crop Insurance Handbook procedure (without too much detail). The commenters believe if this change really is intended, it may explain why sections 36(a) and (c) are written to suggest that substitute yields are elected by year instead of implemented by database. They stated if that is the case, presumably carryover policyholders who had the yield

substitution election the year before these new Basic Provisions become effective would be given the opportunity to cancel that election rather than being bound by these new rules that did not apply when they made the initial decision.

Response: FCIC agrees the election should be reversible and has added language to 36(b) to allow the cancellation of each election, if done not later than the applicable cancellation date.

Comment: One commenter asked for clarification of language in section 36(e) that references "* * * such other basis as determined appropriate by FCIC to cover increased risk * * *".

Response: FCIC has not previously included its rating methodology in the policy because such methodology is always subject to adjustment to ensure actuarial soundness. Therefore, FCIC has revised the provision to require that the premium adjustment reflect the risk associated with the yield adjustment as mandated by ARPA.

Comment: A commenter stated there must be risk management tools and policies to reflect the changing risks inherent in a different (organic vs. conventional) agro-ecological system of management. The commenter also believes many farmers do not understand the complexities of the crop insurance programs. They stated although some new risk management tools have recently become available, USDA needs to do more to help support risk management tools for organic agriculture.

Response: FCIC has clarified the provisions to maximum extent practicable. Further, RMA has established comprehensive risk management education and outreach opportunities by providing on-going training to producers in the use of futures, options, crop insurance, and other risk management tools through which producers can manage their own risks. New risk management tools are continuously being developed and if anyone would like to submit a new policy for organic crops, they can do so under section 508(h) of the Act.

Comment: A commenter stated that sustainable and organic are two very different systems, one being natural continuous regeneration (sustainable), while the other, is unnatural, managed and manmade (organic). The commenter stated they had no idea what they are meant to identify, as sustainable in an independent perspective, which is not also organic, and that this should be clarified.

Response: FCIC agrees sustainable and organic farming practices are two

distinctly different farming methods and has defined the two terms separately. Under the final provisions, organic farming practices will be insured as a separate practice, while sustainable farming practices will be insured under current conventional farming practices. FCIC does not believe further clarification is necessary.

Comment: Several commenters stated they assume FCIC reviewed procedure contained in the Organic Practice Handbook to ensure no conflicts exist between that procedure and the proposed provisions.

Response: FCIC assumes the commenters are referencing the procedures contained in the 2001 Organic Crop Insurance Underwriting Guide. The procedures contained in the underwriting guide will be revised to be consistent with the organic provisions and definitions contained in this final rule.

Comment: A commenter stated any loss of production caused by failure to follow "all" good farming practices, including necessary pesticide applications to control insects, disease, or weeds will result in an appraisal for uninsured causes. The commenter added organic producers are not allowed by regulation to use pesticides and they have better control of all three problems than many conventional producers. The commenter stated it is a well-known fact at Land Grant Universities that crop rotation is a solution to these problems.

Response: FCIC has revised the definition of "good farming practices" to include production methods generally recognized by the organic agricultural industry or contained in the organic plan for organic practices. Therefore, failure of the organic methods that meet the definition of good farming practice would not result in the assessment of production for uninsured causes of loss.

Comment: A commenter urged FCIC to ensure data for organic practices is included in all actuarial tables in all counties so individual written agreements would not be necessary. Another commenter stated FCIC should make affirmative efforts to expand the actuarial tables by adding information from reputable, contemporary studies of yields and expected market prices for organic and sustainably produced crops. The commenter added under the proposal, insurance coverage will only be available for sustainable and organic crops if there is enough information specified in the actuarial table to determine the premium rate.

Response: Separate organic practices cannot be listed in all actuarial tables