

until sufficient organic data for all crops and counties is available. RMA has contracted independent studies to determine what reputable organic data, including yields and pricing information, is available that could be used to include separate organic practices in the Special Provisions. Under the proposed provisions, sustainable farming practices will be insured under the current conventional practices. Therefore, separate data will not be required to establish a separate sustainable farming practice in the Special Provisions. The proposed rule allows organic practices to be approved by written agreement if separate organic practices are not included in the Special Provisions.

*Comment:* Several commenters provided the following comments regarding the use of written agreements to insure crops grown using organic practices: (1) A few commenters asked why organic producers have to sign a written agreement; (2) A commenter recommended provisions be added allowing organic farming coverage without the need for written agreements; (3) Some commenters objected to the organic premium surcharge which they state is based on a perception of additional risk in organic production systems. The commenters asked if FCIC can come up with a scientific basis for the organic premium surcharge. They do not believe FCIC's perception is backed by any scientific evidence and, in fact, is directly contradicted by independent research on the agronomic and economic benefits of organic production systems; (4) Several of the commenters believe the extra charge to organic farmers is discriminatory. They stated they are paying more and receiving less coverage; (5) A commenter asked why a producer can insure an organically grown crop under a Group Risk Plan (GRP) policy without a written agreement, yet a written agreement is required to insure an organically grown crop under all other policies except Adjusted Gross Revenue (AGR); (6) A commenter stated separate (100%) T-Yields used to establish APH yields for certified organic or transitional acreage will be provided on the written agreement and asked who will be setting these yields and on what information the yields will be based; and (7) A few commenters stated while the proposed rule does add the possibility of organic insurance based on actuarial information in the future, in the meantime organic producers will have to rely on written agreements in a biased and economically discriminatory

process (*i.e.*, insure without any written agreements, or go without insurance). They believe the proposed rule does little to alleviate that position, despite the attempt by Congress to eliminate such discrimination.

*Response:* Written agreements are needed where there is insufficient data to include organic practices in the actuarial tables. Organic practices cannot be insured under conventional practices because higher yield variability may exist, particularly in catastrophic events. FCIC has data that suggests that there is greater yield variability. Therefore, it may be necessary to include a premium load because premium rates are greatly dependent on the variability of yields and the premium rate must be reflective of the risk involved to be actuarially sound. The premium load will be based on the data FCIC has for organic crops. If the commenters have independent data that proves otherwise, FCIC recommends they provide the data to RMA for review. FCIC does not agree that the premium charged for an organic practice is discriminatory because it is based on the risk associated with the practice as required by section 508(d) of the Act. The GRP and AGR insurance programs differ significantly from the insurance provided under the Common Crop Insurance Policy Basic Provisions. Indemnities are paid to producers insured under GRP when a county loss is triggered, regardless of whether or not the individual producer suffered a loss. The AGR program provides insurance coverage based on the producer's historical adjusted gross revenue for the farm. Since neither of these insurance products provide coverage based on individual crop losses, as crops under the Common Crop Insurance Policy Basic Provisions do, organic crop practices do not materially alter the risk or coverage provided under either AGR or GRP policies. FCIC will be setting the T-yields for all practices based on the available data for the practice. FCIC has eliminated the bias and discrimination by considering whether the specific organic practice is a good farming practice. If sufficient and credible data is available, organic practices will be added to the actual documents. The organic industry is encouraged to provide data regarding organic practices.

*Comment:* Many commenters stated the final rule should add a clear statement that organic crop insurance coverage will not include insurance premium surcharges.

*Response:* FCIC cannot make such a statement because, as previously stated, the premium must be based on the risk

associated with the practice and in some cases, may result in higher premiums. Therefore, no change has been made.

*Comment:* Some commenters stated if organic farmers need to keep and submit four years of records, maybe all farmers should have to supply four years of records.

*Response:* The record keeping requirements for written agreements will be the same for all producers regardless of whether the producer uses a conventional or organic practice. Further, the record keeping requirements will be the same for producers of conventional and organic practices in counties where conventional and organic practices are provided in the actuarial documents. Therefore, organic producers are not treated any differently than any other.

*Comment:* A commenter supported expansion of the AGR program to include all states in order to ensure fair prices are paid to certified organic growers and those using sustainable agricultural practices.

*Response:* FCIC cannot expand the AGR program in this rule. FCIC will consider this request when deciding whether to expand the AGR program in the future.

*Comment:* Many commenters were concerned about how organic prices will be established. The comments are as follows: (1) Many commenters stated the final rule should add a clear statement that organic crop insurance coverage will include full recognition of organic price premiums when making indemnity payments; (2) A commenter urged FCIC to ensure data on organic premiums is included in all actuarial tables in all counties so that fair returns for losses are paid to growers. They also stated fair prices should take into consideration market premiums for a given certified organic product; (3) Some commenters asked how the actuarial organic pricing tables will be set and if the organic industry will be given the opportunity to comment on the process and sources used to set actuarial pricing information for organic commodities; (4) Some commenters stated they are restricted to conventional market prices. They understand the market values will be changed in a couple of years, however until that time, they are asked to accept the conventional prices. The commenters were concerned as to who will establish the organic prices and how they will be determined; (5) A few commenters recommended until actuarial information for organic pricing is established, organic price premiums be based upon individual crop pricing histories or in the absence of an