

individual history, upon a county average or the averages of multiple counties (to reach a critical mass, if necessary). They stated this system is used for establishing a basis for yields and could be used in the interim as actuarials are being developed; and (6) A commenter recommended a system of county averages be used for producers transitioning into organic production.

*Response:* FCIC cannot provide a statement that organic practices will include a price premium because the price is determined based on the projected market price at the time of harvest and there is no guarantee that the projected price at harvest for organic crops will be significantly different. If the projected market price at harvest for an organic crop is higher, such price will be provided on the actuarial table. FCIC will set organic prices in the same manner that prices are set for all crops. FCIC does not allow an opportunity to comment on the process or the sources of data used for setting any crop price. FCIC has contracted studies to research pricing data throughout the organic industry to determine if sufficient reliable pricing information is available that could be used to establish organic prices separate from conventional prices in the future. Until sufficient price data is available, FCIC has no choice but to offer conventional prices for organic crops. FCIC does not use individual crop pricing histories to set the expected market price because it is an inaccurate measure of such price. County averages may be used in the establishment of expected market prices for organic crops if they provide an accurate measure of the projected market price at the time of harvest. Therefore, no change has been made.

*Comment:* Several commenters believe the organic premium surcharge, coupled with the lack of insurance coverage based on organic prices, creates bias against organic producers. The comments are as follows: (1) A commenter stated the organic premium factor of 1.05 is not right unless producers are paid the price premium they are receiving; (2) Several commenters stated the crop insurance program is irrelevant to organic producers because of the organic premium surcharge and the lack of organic price premium; and (3) Several commenters stated over a year ago the organic community raised two major issues, the organic premium surcharge they feel is unreasonable and which they believe is based on a perception of risk not backed by evidence, and the lack of organic price premium, both of which are still not addressed in the proposed rule. They added that

although the proposed rule does add the possibility of organic insurance based on actuarial information in the future, the likelihood of organic policies based on anything but written agreements in the near term is small. They stated most producers are left with the unenviable choice of insuring under biased and economically untenable written agreements, or insuring without written agreement and facing continued bias against organic farming practices despite the attempt by Congress to eliminate such discrimination, or doing without insurance. They do not believe organic producers should be expected to agree to insurance by written agreement if they are forced to pay more than other producers and receive no benefit from their price premium on claims. One of the commenters stated they, as an organization, would continue to recommend organic producers not agree to insurance by written agreement under these conditions.

*Response:* The organic premium factor is not dependent on the price received. Premium rates are greatly dependent on yield variability. As stated above, a higher yield variability exists for organic practices than for conventional practices, particularly in catastrophic events. The 1.05 premium adjustment factor currently used for organic practice written agreements reflects the data regarding the yield variability risk for organic farming practices. FCIC is providing the maximum coverage available based on the data it has. As stated above, the premium is based on the risk determined from the data provided to FCIC. Further, FCIC cannot provide separate organic prices until adequate organic price data is obtained. FCIC has contracted studies to help obtain such price data. FCIC sympathizes with the problems faced by organic producers. However, without actuarially sufficient data, FCIC cannot make the suggested changes. FCIC is working as expeditiously as possible to collect this data and hopes to have separate prices for organic crops in the actuarial in the near future. Therefore, no change has been made.

*Comment:* A commenter stated for certified organic acreage, the provisions in section 37(c) may be a problem for crops like alfalfa, since reporting and crop insurance is different than for a grain crop. The commenter stated producers carry the insurance through the winter for winter kill. They believe provisions for alfalfa and forage crops are needed.

*Response:* FCIC fails to see why the requirement to have documentation proving the crop is grown organically

when it is reported as an organic practice should be a problem for perennial crop producers. Producers of all insured crops must report their practice and provide any necessary documentation, such as contracts, by the acreage reporting date. The commenter failed to provide any information upon which FCIC could make an exception to this requirement for organic crops. No change has been made.

*Comment:* A commenter stated they had a problem with the provisions in section 37(c) requiring the use of certifying agents for transitional acreage, because many times a decision by a soil consultant is in place until the end of the season (sometimes winter) until certifying agents finally get time to review.

*Response:* To be insured as an organic practice, there must be evidence that such practice is used. Such evidence is provided by the certifying agent in the organic plan. If the transitional acreage is not included in the organic plan, it would be difficult to verify that an organic practice was used on the transitional acreage. Therefore, no change has been made.

*Comment:* Many commenters commented on the provisions proposed in section 37(g). Most of the commenters believe the crop insurance policy should provide coverage for contamination by unintentional application or drift of prohibited substances. The commenters provided the following comments and questions: (1) A commenter stated pesticide and genetic drift are among the most pervasive threats faced by sustainable and organic farmers, yet the proposed rule specifically excludes coverage for these risks for organic producers. The commenter believes crop insurance is the only reliable means to spread the risk of pesticide and genetic drift for sustainable and organic farmers, and that spreading the risk is an essential function of crop insurance. The commenter stated section 107 of ARPA requires the Corporation to offer quality loss adjustment coverage for "identity preserved" crops on a smaller than unit basis. The commenter stated the most relevant quality loss for many identity preserved crops would be the loss of identity due to the introduction of foreign genetic and chemical materials. The commenter asked if this coverage is currently available, and if not, when it will be made available; (2) A commenter asked what the rationale is behind excluding coverage for contamination and asked if that position is defensible in light of the purposes of the Federal crop insurance program; (3) A