implemented; (7) if a plan like this is offered it should be offered as a separate policy without government subsidy and delivered by the private insurance industry without any cost to the government; (8) the premium for the 25 percent protection (20 percent for hybrid seed (corn) and 17.5 percent for cotton, ELS cotton, and rice) has been increased as much as 30 percent in some counties. This protection should be offered as an option or a separate endorsement that does not affect the cost of the basic protection or require the producer to sign an exclusion; (9) the rating varies within a state from 5 percent to 30 percent for no apparent reason; (10) it puts extreme pressure on the final planting date. For example, producers contemplating switching from corn to soybeans would normally plant whenever they thought they were better off with a normal soybean yield versus a reduced corn yield, but now some producers will want to wait until the final planting date for corn so they can have the prevented planting guarantee when planting a substitute crop; (11) intended acres are very hard to administer; (12) every crop could potentially show one crop as prevented planting with a substitute crop planted (i.e. a producer could report prevented planting corn with planted soybeans on field A and prevented planting soybeans with planted corn on field B when the producers intentions were to plant half of the fields to soybeans and half to corn); (13) it encourages producers to manipulate the program to the detriment of the American taxpayer; (14) acreage on which the producer is able to plant a crop for harvest is not acreage that is prevented from being planted; (15) the definition of 'indemnity'' in the Basic Insurance Principles states, "For insurance purposes, it means that the producer is restored to approximately the same position from an economic standpoint that was occupied before the loss occurred. * * * Never, under any circumstances, would a gain be permitted." Under this provision, a gain is almost a given; (16) a producer would not plant two crops on the same acreage in the same crop year, except for a producer who normally double crops. That is unfair to producers in areas without excessive moisture who plant only one crop and may receive an indemnity on only that crop, not an additional 25 percent on an imaginary crop; (17) any time a producer can opt out of automatic coverage, adverse selection is assured; (18) the more endorsements, options, and exclusions that are added to a policy, the greater

the likelihood of producers being unaware of all of their policy provisions and obligations which increases the appeals, litigation cases, agent error and omissions occurrences, and Congressional referrals; (19) the rate increases and factors that were used are inaccurate; (20) factors used to decrease premium if a producer opts out of this coverage are excessive; (21) the prevented planting provisions must increase the incentive to plant the original crop and decrease any incentive to simply not plant and collect insurance benefits; (22) adverse selection will also occur as producers will be able to opt out of prevented planting for a reduced charge; and (23) the most recent GAO report addresses the inadequacy of the current premium rates and that the programs rate structure was undermined when the Department provided more benefits in 1995 under the prevented planting provision and, if history is any indication, then premium rates will remain inadequate.

Response: FCIC understands the concerns of the crop insurance industry, government employees, and others. Although the Reform Act did not mandate this protection, FCIC's decision to develop the proposed regulations for prevented planting was based on broad policy concerns that had to be considered along with actuarial concerns.

When the present prevented planting provisions were developed for the 1994 crop year, FCIC knew that changes would be needed in future years as experience was gained. Many producers were prevented from planting in the 1995 crop year and voiced discontent with those provisions. It was concluded that there was an inconsistency in coverage that resulted in three different levels of claims payments for producers similarly affected by excessive moisture. Specifically, producers who planted an insured crop that failed were eligible for crop insurance indemnities for a loss in production; producers who were prevented from planting an insured crop and did not plant a subsequent crop were eligible for a crop insurance prevented planting payments, but producers who were prevented from planting an insured crop and planted a substitute crop were not eligible for any crop insurance payments. FCIC believes that this third group should be eligible for crop insurance payments to make them whole.

To maintain actuarial integrity 1996 crop insurance premium rates were recalculated to reflect the prevented planting coverage changes. FCIC believes the coverage changes merely

give producers another insurance choice when they are prevented from planting their initially intended crops. FCIC agrees producers should be encouraged to plant their initially intended crop after the final planting date when it is practical to do so. Therefore, FCIC is amending this regulation so that when Producers are prevented from planting their initially intended crop and plant a substitute crop within ten days after the final planting date for the initially intended crop, a prevented planting production guarantee will not be provided for such acreage. In addition, FCIC believes producers will make every effort to plant the crop of the greatest economic value as soon as possible. It would make little sense to delay planting to receive the 25 percent prevented planting payment and run the risk of not getting any crop planted. FCIC believes this amendment will help maintain the actuarial soundness of the prevented planting coverage.

The proposed regulations do not provide the option to delete the primary prevented planting coverage. They do provide producers the option of declining eligibility for a prevented planting production guarantee when a substitute crop is planted. Producers may wish to delete this coverage in return for a reduction in the premium they are required to pay. Based on the forgoing reasons, no change will be made.

Comment: One comment received from the crop insurance industry suggested that the option to receive prevented planting benefits and plant a substitute crop should be continuous until cancelled and should only be completed for producers who want the additional coverage, not for producers declining the coverage.

Response: FCIC has determined that all producers should have complete prevented planting coverage unless they elect to exclude such coverage when a substitute crop is planted for harvest. Experience in 1993 indicates that most producers were unaware of the availability of prevented planting coverage when it was a separately purchased coverage. Therefore, no change will be made.

Comment: One comment received from counsel of a reinsured company stated that the policy provisions should be amended to read, "Proof that you had the inputs available to plant and produce a crop other than a crop you planted the past year or a crop that is part of a regular rotation of the acres planted and for which you had insurance with the expectation of at least producing * * *."