

# RAFI-USA

Rural Advancement Foundation International - USA

---

274 Pittsboro Elem. Sch. Rd. • PO Box 640 • Pittsboro, NC 27312 • Tel: 919-542-1396 • Fax: 919-542-0069 • [www.rafiusa.org](http://www.rafiusa.org)

## Organic Price Election

### **Policy Recommendation for the 2008 Administration Transition**

This recommendation is a 2008 Farm Bill implementation item, is an action the new Administration could undertake based on current authorities without any new action by Congress and is an action that would fit well within the context of “the first 100 days” in office.

#### **Policy or Program:**

Disaster assistance programs, especially SURE (Supplemental Revenue Assistance Program) and NAP (Noninsured Crop Disaster Assistance Program)

#### **Legislative Authority:**

2008 Farm Bill sections 12033(b), 12023 (amending 7 U.S.C. sec. 1522(10)(C)), and 10302; 7 U.S.C. sec. 7333.

#### **Recommendation:**

**We recommend** that the Administration establish regulations for the SURE program which require the establishment of crop varieties based upon farming practices used and intended end use of the crop, including crops grown for the organic and fresh, local markets.

The SURE program is a successor to a series of ad hoc crop disaster programs previously enacted by Congress. Under those programs, USDA promulgated regulations that prohibited establishing separate prices and yields for organic crops. *See Partlo v. Johanns*, U.S. App., LEXIS 9963 (D.C. Cir. 2007,) *affirming, without opinion, Partlo v. Johanns*, 2006 U.S. Dist. LEXIS 43071 (D.D.C. 2006); see also 7 C.F.R. 760.811 (2008). These restrictions were not included in regulations implementing the previous statutory authorization for ad hoc crop disaster assistance. *See Pringle v. United States*, 1998 U.S. Dist. LEXIS 19378 (E.D. Mich. 1998)(unpublished). The new regulatory prohibition on separate payment prices and yields placed organic producers at a significant disadvantage relative to their conventional producer counterparts, who received benefits at a rate much nearer their actual prices. *See* Scott Marlow, *Disaster Programs and the Changing Face of Agriculture in North Carolina*, (Rural Advancement Foundation International - USA, 2007), available at [www.rafiusa.org](http://www.rafiusa.org). The prohibition should not be carried over to the SURE program.

Historically, USDA has collected some data on separate crop end uses such as fresh versus processing markets, but has not collected separate price data relative to organic commodities and crops. Some initial efforts have been made in recent years, though they have not been applied to determine disaster program benefits. The 2008 Farm Bill includes a section which provides funding

and authority for USDA to collect data on the production and marketing of organic agricultural productions, including comprehensive price data. (2008 Farm Bill section 10302). In addition to direct data collection by USDA, **we recommend** that the agency also aggregate data collected by Extension, colleges and universities, state departments of agriculture, community based organizations, and other reliable sources. Farm Bill section 10302 requires USDA to produce a report on implementation not later than 180 days after enactment. This report may be an important tool in assessing progress toward providing equal and fair access to disaster assistance for organic farmers. It may be useful for USDA to produce similar reports every six months or year. **We recommend** that the report should be made available on the USDA website.

Building upon section 10302, Farm Bill section 12023, directs the Federal Crop Insurance Corporation to enter into 1 or more contracts for the development of improvements in federal crop insurance policies for organic crops. This contract does not appear to have been awarded yet, even though the Farm Bill said one or more contracts should be entered into not later than 180 days after enactment. Section 12023 directs that these policies must provide for an additional price election, in order to allow organic farmers to choose to insure their actual wholesale or retail prices. The new policies, including the price election, are to be developed in time to begin making policies available to producers for the 2010 crop year. **We recommend** that issuing a public solicitation for bids be made a high priority, and that the solicitation for bids include criteria to evaluate the bidders expertise and experience in issues particular to organic farming and marketing. **We recommend** that the solicitation be published in the Federal Register and that it emphasize the importance of timely development of the policies.

The Farm Bill did not include an explicit comparable provision for organic and retail price elections under the noninsured crop disaster assistance program (NAP, 7 U.S.C. sec. 7333), but the existing statute does not prohibit it, and thus **we recommend** that USDA provide for an organic price election in the NAP program as soon as practicable, based upon available data. Section 12033 of the Farm Bill directs that benefits for noninsurable crops under the SURE program be based upon the established price under the NAP program. **We recommend** this adjustment to the NAP program, both in order to improve the fairness of the NAP program itself, and to ensure that the SURE program provides fair and equitable risk management tools to farmers seeking coverage for their organic crops.

**Contact Persons:**

**Scott Marlow,**  
**The Rural Advancement Foundation International – USA (RAFI-USA)**  
919 542-1396 / [smarlow@rafiusa.org](mailto:smarlow@rafiusa.org)

**Karen Krub**  
**Farmers Legal Action Group, Inc. (FLAG)**  
651-223-5400 / [kkrub@flaginc.org](mailto:kkrub@flaginc.org)