

Risk Management Agency Interpretation of Federal Crop Insurance Corporation Provisions:

Subject: Request dated March 8, 2021, to the Risk Management Agency (RMA) for an interpretation regarding whether subparagraphs 51A(1) and (2) allow an Approved Insurance Provider (AIP) to request a Substitute Schedule F from an insured when a Schedule F has been filed with the Internal Revenue Service (IRS) and then use the information in the Substitute Schedule F as cause to cancel the insured's WFRP policy.

The relevant handbook procedures provided by the requestor are subparagraphs 51A(1) and (2):

51. *IRS Tax Forms and Verifiable Records and/or Direct Marketing Sales Records*

A. *IRS Tax Forms*

- (1) *Copies of the applicable IRS tax form(s), such as Schedule F, Form 1040, Form 1120, Form 1041, Form 1065, Form 1102S, and Form 4835, must be provided to the AIP for each tax year in the whole-farm history period.*

The AIP must request verifiable records and/or direct marketing sales records to verify the allowable revenue and allowable expenses on the Whole-Farm History Report when the AIP has reason to believe the farm tax form(s) do not provide adequate documentation of revenue or expenses for WFRP purposes. In such cases, the AIP must not accept any Whole-Farm History Report if the allowable revenue for any year cannot be verified through the requested verifiable records and/or direct marketing sales records.

- (2) *Persons who do not file a Schedule F tax form must report and certify allowable revenue and expenses in the same manner as provided on a Schedule F tax form by completing a Substitute Schedule F. The Substitute Schedule F must contain all information that would appear on a Federal Schedule F tax form and must be sufficient to complete the Allowable Revenue Worksheet and Allowable Expense Worksheet. The person must use the same accounting period when completing the Substitute Schedule F as was used on the farm tax form they filed with the IRS for the applicable year.*

Interpretation Submitted by Requestor(s)

The first requester interprets subparagraph 51(A)(1) as it is the AIP's duty to request verifiable records and/or direct marketing sales records if the AIP has, "reason to believe the tax form(s) do not provide adequate documentation of revenue or expenses for WFRP purposes." In cases where the AIP has reason to believe that the tax forms are not adequate or supported by verifiable records, the AIP must not accept the Whole-Farm History Report. However, if the AIP does request supporting documentation and accepts the Whole-Farm History Report, then the requester believes that the AIP has no basis for asking an insured to complete and submit Substitute Schedule F forms when the insured has filed Schedule F forms with the IRS and provided them to the AIP. The AIP may only accept a Substitute Schedule F to establish coverage when the insured does not file Schedule F tax forms with the IRS.

The first requestor continues that when a Schedule F is filed with the IRS, provided to the AIP by the insured, and used to establish coverage, the first requestor believes that the AIP should not subsequently require the insured to complete and submit Substitute Schedule Fs. Under these circumstances, information supplied by the insured on a Substitute Schedule F form cannot and should not be used by the AIP to retroactively cancel the WFRP Policy. The first requestor believes that it is contrary to paragraph 51 of the 2018 WFRP Pilot Handbook for the AIP to compare and use information on a Substitute Schedule F (which should not have been requested) with information on the insureds' Schedule F tax forms to cancel the insured's policy.

The second requestor interprets subparagraph 51A(1) to mean that if the insured files a Schedule F and the AIP, after initially accepting the Whole-Farm Revenue History Report that relied on the information reported on the filed Schedule F forms, determines that or has reason to believe that the information on the filed Schedule F forms is not adequate to determine allowable revenue and allowable expenses on the Whole Farm History Report, the 2018 WFRP Pilot Handbook permits the AIP to request that the insured complete a Substitute Schedule F form using the verifiable records in an attempt to establish coverage that is accurate and reflects the revenue and expenses of the farming operation.

Federal Crop Insurance Corporation Determination

FCIC agrees with the first requestor's interpretation of subparagraph 51A(1) of the 2018 WFRP Pilot Handbook that is the duty of the AIP to request verifiable records and/or direct marketing sales records if there is reason to believe the tax forms are not adequate to determine the insured's allowable revenue and expenses. FCIC also agrees with the first requestor's interpretation that an AIP cannot require an insured to submit a Substitute Schedule F if the insured has filed a Schedule F with the IRS.

FCIC disagrees with the second requestor's interpretation that the 2018 WFRP Handbook permits the AIP to require the insured to complete a Substitute Schedule F using the requested verifiable records. Sections 16(a)(1)(i) and (c)(1) of the 2018 WFRP Pilot Policy state when the insured is required to submit a Substitute Schedule F.

Although, FCIC agrees the AIP cannot request a Substitute Schedule F as stated above, additional information requested by the AIP and provided by the insured could affect the insured's eligibility for a WFRP policy under section 3 of the 2018 WFRP Pilot Policy that requires cancellation of the policy or at the very least, denial or adjustments to coverage per sections 15(i) or (j) of the policy.

In accordance with section 33(a)(1) of the WFRP Pilot Policy, this FCIC interpretation is generally applicable and binding in any mediation or arbitration. In accordance with section 33(a)(1), any appeal of this interpretation must be in accordance with 7 C.F.R. part 11.