

Risk Management Agency Interpretation of Federal Crop Insurance Corporation Provisions:

Subject: Request dated April 5, 2021, to the Risk Management Agency for an interpretation regarding whether sections 15(a) and (j) of the 2018 Whole-Farm Revenue Protection (WFRP) Pilot Policy requires an insured to provide all information required in the reports under the WFRP Pilot Policy, including but not limited to, expected yields and expected values as defined in the WFRP Pilot Policy.

The relevant policy provisions provided by the requestor are sections 15(a), (i), (j)(2), (k), 22(b)(2) and 9(g):

15. Required Reports.

- (a) *On or before the sales closing date for each policy year you must provide:*
 - (1) *Your completed Whole-Farm History Report in accordance with section 16; and*
 - (2) *Your Intended Farm Operation Report in accordance with section 17.*
- ...
- (i) *If you fail to timely submit any required information, or we are unable to verify the information that was submitted, we will deny any indemnity, or replant payment and you will still be required to pay the premium due.*
- (j) *You must provide, sign and certify all required reports and you are responsible for the accuracy of all information contained in those reports. You should verify the information on all reports prior to submitting them to us. If you submit information on any report that is different than what is determined to be correct and the information you originally submitted resulted in:*
 - ...
 - (2) *A higher insured revenue than the corrected insured revenue, the information contained in the Farm Operation Report will be revised to be consistent with the correct information and your insured revenue will be lowered to the correct amount.*
- (k) *If we discover you have incorrectly reported any information on your reports for any policy year, corrections may be made if authorized in section 41 but you may be required to provide documentation in subsequent policy years substantiating your reports for those policy years, including, but not limited to, an acreage measurement service at your own expense. If the correction of any misreported information would affect an indemnity, or replant payment that was paid in a prior policy year, the claim will be adjusted and you will be required to repay any overpaid amounts.*
- (l) *Errors in reporting may be corrected by us at any time we discover the incorrect information unless corrections are authorized in section 41.*

22. Your Duties in the Event of Damage or Loss.

- ...
- (b) *In case of potential loss of revenue under this policy, you must:*
 - ...
 - (2) *Cooperate with us in the settlement or investigation of your claim, and, as often as we reasonably require:*

...
(iii) *Provide us with the verifiable records and documents we request and permit us to make copies...;*

9. Coverage

...
(g) *We will reduce your approved revenue and any indemnity or deny coverage at any time we become aware that the information used to determine your approved revenue is incorrect or is not supported by verifiable records.*

Interpretation Submitted by Requestor(s)

The requestor interprets sections 15(a) and (j) of the Whole-Farm Revenue Protection (WFRP) Pilot Policy to place the burden entirely on the insured to fully, accurately and timely provide the all information contained and required in the reports required under the WFRP policy, including but not limited to, expected yields and expected values as defined in the WFRP policy. Specifically, the requestor interprets section 17(a)(2), that the insured is required to provide to the AIP, an Intended Farm Operation Report (IFOR) on or before the sales closing date, which must include expected revenue for each intended commodity with yields reflecting the amount of saleable production and expected values reflecting the expected sales price by markets where the crop is normally sold. The requestor also interprets section 22(b)(iii) to mean the AIP is authorized to request and the insured is required to provide records to support the information and sources cited to determine the expected yield and expected values. The language found in the Expected Value and Yield Source Certification Worksheet specifically provides that: "I certify that to the best of my knowledge and belief all of the information on this form is correct. I understand that the information on this form may be reviewed and audited, and used to determine my loss, if any, for the policy listed above, I understand that inaccurate information or *my failure to retain or provide, upon request, records supporting the information on this form may result in denial of coverage, cancellation of my policy, and ineligibility for indemnity, or recalculation of insured revenue.*" The requestor interprets these provisions to require the insured to provide, upon request from the AIP, additional information, and records to support the expected yields and expected values reported by the insured on the IFOR. Where an insured fails to timely provide all of the requested records and information to support sources used to determine the expected yields and/or expected values, the requestor interprets section 15(i) to allow the AIP to deny any indemnity under the WFRP policy if the AIP is unable to verify the information that was submitted. Further, if the AIP determines that the expected yields and/or expected values initially reported by the insured is incomplete or inaccurate, the AIP is required to reduce and lower the expected revenue to the correct amount pursuant to section 15(j)(2). The requestor also interprets section 15(j)(2), in conjunction with section 9(g), to authorize and require the AIP to reduce approved revenue and indemnity at any time the AIP determines that the approved revenue is incorrect or not supported by verifiable records. The requestor further interprets the term "any time" to authorize and require an AIP to correct and reduce approved revenue during the application process, any reviews or audits, or in connection with a loss adjustment after a claim has been made.

Federal Crop Insurance Corporation Determination

FCIC agrees with the requestor's interpretation of sections 15(a) and (j). The insured must provide all information contained and required on the report(s) used in the 2018 WFRP Pilot Policy, including but not limited to, expected yield(s) and expected value(s) for each commodity listed on the Farm Operation Report. FCIC also agrees with the requestor, that if the AIP is unable to verify information

submitted by the insured, section 15(i) allows the AIP to deny the indemnity. Finally, FCIC agrees with the requestor that section 15(j)(2) allows the AIP to reduce and lower the expected revenue to the correct amount, if they determine the expected yield(s) or expected value(s) initially reported by the insured are incomplete or incorrect.

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.