

Risk Management Agency Interpretation of Federal Crop Insurance Corporation Provisions:

Subject: Request dated December 16, 2020, to the Risk Management Agency for an interpretation for the of the 2017 Whole-Farm Revenue Protection (WFRP) Pilot Policy regarding whether section 9(g) authorizes an Approved Insurance Provider (AIP) to adjust the expanded operation factor, expected price and/or yields on a WFRP policy at any time, including, but not limited to, after coverage has attached, after the issuance of a schedule of insurance, after the submission of a claim by the insured, and even after payment has been tendered if it is subsequently determined that the information upon which said payment was made is incorrect or otherwise not supported by verifiable records.

The relevant policy provision provided by the requester is section 9(g):

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. Your premium will be adjusted to reflect any revised approved revenue.*

Interpretation Submitted by Requestor(s)

The requester's interpretation is that AIPs not only have the authority – but an affirmative duty – to adjust the expanded operation factor, expected price, and/or yields on a WFRP policy at any time, including, but not limited to, after coverage has attached, after the issuance of a schedule of insurance, after the submission of a claim by the insured, and even after payment has been tendered if it is subsequently determined that the information upon which said payment was made is incorrect or otherwise not supported by verifiable records.

The duty to execute the program is a continuing one, and this duty may not be abrogated, nor waived. To that point, the preamble to the subject WFRP policy states, in part, “The provisions of the policy may not be waived or varied in any way by us, our insurance agent or any other contractor or employee of ours, or any employee of the United States Department of Agriculture.”

Federal Crop Insurance Corporation Determination

FCIC agrees with the requester's interpretation that section 9(g) of the 2017 WFRP Pilot Policy requires an AIP to adjust the expanded operation factor, expected price, and/or yields on a WFRP policy at any time, including, but not limited to, after coverage has attached, after the issuance of a schedule of insurance, after the submission of a claim by the insured, and even after payment has been made if it is subsequently determined that the information, such as the expanded operation factor, expected price, and/or yields, is determined incorrect or otherwise not supported by verifiable records.

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.