

Risk Management Agency Interpretation of FCIC Provisions:

Subject: Requests dated April 13, 2021, and May 6, 2021, to the Risk Management Agency for an interpretation of the 2019 Whole-Farm Revenue Protection (WFRP) Pilot Policy and General Standards Handbook (GSH) regarding if an executed FSA-211 applies to the Whole-Farm Revenue Protection Pilot Policy.

The relevant policy and handbook procedures related to this request are WFRP Policy Section 4(h) and GSH Paragraphs 255, 854, and 855:

WFRP Policy

4. Life of Policy, Termination, and Cancellation

(h) Any person may sign any document relative to crop insurance coverage on behalf of any other person covered by such a policy, provided that the person has a properly executed power of attorney or such other legally sufficient document authorizing such person to sign. You are still responsible for the accuracy of all information provided on your behalf and may be subject to the consequences in section 15(j), and any other consequences, including administrative, criminal or civil sanctions, if any information has been misreported.

General Standards Handbook

255 Corporations

The Application must be signed by a person authorized by the corporation to bind the corporation into contracts. Upon request, the insured must be able to provide written documentation from the corporation identifying the authorized representative of the corporation. The insured must provide to the AIP, in writing, the state in which the articles of incorporation/organization are filed.

854 Signatures

A. Requirement

Any crop insurance document requiring a signature must be signed by the person whose signature is required (e.g., the applicant must sign the Application). A POA or other legally sufficient document is required for any person who is authorized to sign on behalf of the required person.

If the applicant is a minor, the parent or court-appointed guardian must sign all documents that require a signature unless the minor has been legally emancipated.

B. Acceptable Signature Types

Acceptable signatures for crop insurance include the:

- (1) signature of the required person (e.g., applicant, insured, or grantor);

- (2) signature of the authorized representative (or attorney-in-fact) granted by a POA; and
- (3) signature of the authorized representative granted by a legally sufficient document.

C. POA or Other Legally Sufficient Documentation Required

The POA or other legally sufficient document (such as the Articles of Incorporation) must identify who is authorized to sign the initial Application and represents the original agreement between the grantor and its authorized representative.

Exception: The application does not represent the original agreement between the grantor and its authorized representative when an authorized representative who is required to sign the initial application assigns signatory authority to another person by the non-substantive signatory statement.

Example 1: An individual operating as a business person type, where the sole proprietor signs the Application then assigns the signature authority to another person by using the non-substantive signatory statement, represents the original agreement between the sole proprietor and the authorized person.

Example 2: For the partnership person type, the partnership agreement must identify the authorized representative who may sign the Application. The authorized representative, identified by the partnership agreement, then assigns signatory authority using the non-substantive signatory statement to another person. The partnership agreement evidences the original agreement between the partnership and its authorized representative, and the non-substantive signatory evidences the assignment of this authority to another person.

855 Power of Attorney

Insureds may grant a third-party the authority to sign crop insurance documents on their behalf if a legally executed POA is provided to the AIP.

A. POA Types

- (1) A POA that is executed in accordance with the laws of the state of execution is acceptable for crop insurance purposes. Such POA must be in writing and specify the powers granted to the authorized representative by the grantor. A POA is executed when it is signed.

- (2) A POA that is executed according to federal authorities, such as an FSA Power of Attorney, is acceptable. An acceptable POA executed according to federal authorities is a POA that includes language that the form is applicable for crop insurance purposes. A form executed in accordance with federal authorities is a form that has been approved by the Office of Management and Budget.

Note: A POA developed by an AIP, in accordance with the standards provided by the DSSH, is not considered a “federal form” executed according to federal authorities, unlike the FSA POA which is a federal form that supersedes state law. Any AIP developed POA requires compliance with state law.

B. POA Requirements

- (1) Authority

POAs which grant authority to sign contracts and legally bind the grantor(s) are sufficient for crop insurance purposes. The POA must specify the person authorized, the period of authorization, and powers granted.

Exception: Oral or open powers of attorney are not acceptable. An oral or open POA is a POA that does not specify who the authorized representative receiving the power is at the time of execution.

- (2) Notarization

In states that require POAs to be notarized, the signatures of the grantor and grantee must be notarized. If notarization is not required by the state, the signatures of the grantor and grantee must be witnessed and the signatures of the witness obtained on the document.

C. Filing Requirement

A POA must be filed with the office where the official insurance file is maintained and must remain in full force and effect until written notice of its revocation has been received by the office maintaining the official insurance file. The revocation must maintain in the official insurance file.

Interpretation Submitted by Requestor(s)

First Requestor’s Interpretation

The first requestor’s interpretation is that the FSA form FSA-211 covers all programs and all actions to be taken under all programs administered by Farm Service Agency, Natural Resources Conservation Service, Commodity Credit Corporation, Federal Crop Insurance Corporation, and Risk Management Agency. The WFRP is a program under the Federal Crop Insurance Corporation umbrella and thus any actions taken by the appointee under the POA is valid and binding.

The first requestor's interpretation of GSH Paragraph 855, is that it allows signatures of any authorized representative if such power is granted by a legally sufficient document. The requestor believes the FSA-211 form is such a legally sufficient document. The requestor notes that while a POA for a specific policy must be filed and maintained with the official insurance file there is no such requirement for "other legally sufficient document" to be filed and maintained with the official file it simply must exist and identify who is authorized to sign the initial application. Finally, the requestor believes the authority to take "all actions" [as identified on this form] includes the authority to sign the initial application.

Second Requestor's Interpretation

The second requestor's interpretation is that while the FSA form FSA-211 is an acceptable POA for crop insurance purposes if the grantor fails to complete those portions of the form addressing crop insurance transactions (for example, the Grantor only completes that portion of the form addressing FSA, NRCS, and CCC programs and does not check any of the boxes to authorize any actions relating to crop insurance), such a document is not an effective POA for crop insurance transactions.

Federal Crop Insurance Corporation Determination

FCIC disagrees with the first requestor's interpretation of Paragraph 855 of the 2019 GSH. Paragraph 855 allows signatures of any authorized representative if such power is granted by a legally sufficient document and provides that a POA for a specific policy must be filed and maintained with the official insurance file. Paragraph 255 is also clear that documentation that demonstrates who is authorized by the corporation to bind the corporation into contracts, must be in writing and must be provided to the AIP. Additionally, the insured must provide to the AIP, in writing, the state in which the articles of incorporation/organization are filed.

FCIC agrees that the FSA form FSA-211 applies to the WFRP Pilot Policy. However, if the FSA form FSA-211 is not properly executed to include the section pertaining to FCIC policies, then it would not be a valid POA for FCIC policies. If the form is properly executed with the appropriate section for FCIC policies and it contains a selection for either "All actions" or "Making applications for insurance" the individual identified would be provided a power of attorney for FCIC policies and could validly sign an application.

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.