

**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 section 22(a)(1) of the 2018 Whole-Farm Revenue Protection (WFRP) Pilot Policy requires an insured to notify the Approved Insurance Provider (AIP) of a loss event that causes damage or loss to a commodity and whether section 22(d)(1) requires the AIP to consider any loss of production due to failure to timely provide notice, damage due to an uninsured cause of loss.

The relevant policy provisions provided by the requestor are sections 22(a)(1) and (d)(1):

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

(a) *You must provide us with a notice of loss within 72 hours of your initial discovery that your allowable revenue for the policy year could fall below the insured revenue:*

- (1) *In the case of damage or loss of production, your notice must specify the damaged commodity and document the cause of loss. Careful consideration must be given when perennial crops with underlying coverage under another FCIC policy have insurable trees or vines that were planted/set out, grafted, or dehorned in the orchard, vineyard, grove or bog and an insured reports a yield greater than the average yield for the underlying coverage. Blocks where expected yields are adjusted from what is reported on the underlying coverage due to planting, grafting, dehorning, etc. should be recorded on the Expected Value and Yield Source Document Certification Worksheet separately. Refer to paragraph 22 for information on Pre-Acceptance Inspections.*

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(d) *If you fail to comply with any of the notice requirements of this section:*

- (1) *We will consider any loss on the portion of the commodity (damaged acres or other applicable unit of measure for the commodity) for which you failed to provide notice to be due solely to uninsured causes, unless we determine that we have the ability to accurately determine the amount and cause of loss; and*
- (2) *You will still be required to pay all premiums owed for your policy, including premium for any portion of the commodity we consider damaged due solely to uninsured causes.*

**Interpretation Submitted by Requestor(s)**

The requestor interprets subparagraph 22(a)(1) of the 2018 Whole-Farm Revenue Protection (WFRP) Pilot Policy to require the insured to notify the Approved Insurance Provider (AIP) within 72 hours of the loss event (e.g., freeze or other weather event) that causes damage or loss to the crop and allow the AIP to inspect and assess the damage or loss to the crop at or near the time of the loss event. While the WFRP policy insures revenue from the entire farming operation and the extent of the revenue loss may not be completely known until harvest, the insured is still required to notify the AIP within 72 hours of the loss event of a potential loss of production related to such loss event. The insured may not wait until after harvest to provide a notice of loss as the AIP will not have an opportunity to inspect the crop and verify any loss or damage as a result of the loss event. The purpose of the timely notice is to allow the AIP an opportunity to inspect the crop, assess the damage and verify the cause of loss as insurable or uninsurable. Where an insured fails to give the AIP within 72 hours of the loss

event and the AIP is not given the opportunity to inspect the crop, the requestor interprets section 22(d)(1) of the WFRP policy to require the AIP to consider any loss on production for which the insured failed to provide timely notice to be due solely to uninsured causes. In this situation, the AIP is required to assess the full guarantee for the insured crop for which notice was not timely given in calculating any loss of revenue under the WFRP policy.

**Federal Crop Insurance Corporation Determination**

FCIC agrees with the requestor's interpretation of sections 22(a)(1) and d(1) of the 2018 WFRP Pilot Policy. Section 22(a)(1) requires an insured to provide a notice of loss within 72 hours of an event that could cause the insured's allowable revenue to fall below the insured revenue. Section 22(d)(1) also requires the AIP to consider any loss of production, due to an event where no notice of loss was timely provided, revenue to count at claim time due to uninsured causes.

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.