

Risk Management Agency Interpretation of Federal Crop Insurance Corporation Provisions:

Subject: Request dated April 7, 2021, to the Risk Management Agency (RMA) for an interpretation of whether section 9(g) of the 2019 Whole-Farm Revenue Protection (WFRP) Pilot Policy allows an Approved Insurance Provider (AIP) to reduce the expected yield or expected value for a commodity after coverage has attached and the AIP has reviewed and approved the revenue.

The relevant policy provision provided by the requestor 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 requestor's interpretation is that section 9(g) of 2019 WFRP Pilot Policy only authorizes the AIP to reduce the yield or expected value for a commodity after coverage attaches if they become aware that the information used to determine the approved revenue is incorrect or is not supported by verifiable records. If the parties agreed to use an insured's historic average to determine approved revenue, and used the historic average revenue provided by the insured to determine expected revenue, pursuant to section 12(a) of the Policy, then the AIP can only make adjustments if they can show the insured provided incorrect information or cannot verify the information that was provided.

The requestor refers to FCIC Interpretation of Procedure PM-C-2-1-44, which determined there is an underlying assumption that the insured's reports are filed correctly, and that pursuant to section 15(j)(2) of the WFRP Pilot Policy, the AIP is only authorized to make corrections when the insured reports different information than what was originally reported, and that information resulted in higher insured revenue than what was determined to be correct. The requestor continues that this interpretation is bolstered by FCIC's Interpretation of Procedure PM-C-21-43, wherein it is determined that the AIP can only reduce the insured's approved revenue, at any time, "when it is determined the information used to determine the insured's approved revenue is incorrect or cannot be verified."

The requestor also refers to another FCIC Interpretation, PM-C-21-26(b), wherein it was determined that the AIP can reduce the insured's revenue, but only if the information used to determine the insured's revenue is incorrect or cannot be verified. Otherwise, the AIP has the duty to underwrite the policy accurately, based on the correct and timely information provided by the insured. The requestor interprets this to mean that while the AIP can modify the expected yields or expected values its ability to do so is limited; it must comply with the WFRP handbook and Section 18 of the Policy. It is presumed the insured provided accurate information and the policy was underwritten with such information, the AIP cannot reduce the insured's approved revenue, absent a showing that the information provided to determine that the approved revenue was incorrect.

The requestor continues with an interpretation that once the AIP has reviewed the approved revenue, revised the approved revenue, adopted the approved revenue, and increased the premium the AIP should be prohibited from once again revising the approved revenue.

Federal Crop Insurance Corporation Determination

FCIC agrees with the requestor's interpretation that section 9(g) of the 2018 WFRP Pilot Policy authorizes the AIP to reduce the expected yield or expected value for a commodity after coverage attaches when it is determined the information used to calculate the insured's approved revenue is incorrect or cannot be verified.

FCIC disagrees with the requestor's reference to Interpretation of Procedure PM-C-21-44 regarding this interpretation of section 9(g) of the 2019 WFRP Pilot Policy, as it was not related to the adjustment of approved revenue; rather commodity count and coverage levels under WFRP.

FCIC agrees the Interpretation of Procedure PM-C-21-26(b) states that section 9(g) does authorize the AIP to reduce the insured's approved revenue, at any time, when it is determined the information used to determine the insured's approved revenue is incorrect or cannot be verified.

FCIC disagrees with the requestor that the AIP is prohibited from subsequent revisions to the approved revenue.

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.