

Risk Management Agency Interpretation of FCIC Provisions:

Subject: Request dated April 29, 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 a power of attorney authorizing a person to sign crop insurance documents issued by a specified approved insurance provider (AIP) is effective for purposes of authorizing the signing of an application with a different AIP.

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

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.

D. Non-Substantive Signatory Statement

The DSSH provides a non-substantive statement that allows the required person or its authorized representative to designate person(s) who are authorized to sign crop insurance documents on its behalf. If the AIP elects to utilize the non-substantive statement contained on the Application or Policy Change form in the DSSH, then the Application or Policy Change is deemed to be a legally sufficient document that allows for the person to sign on behalf of the required person, notwithstanding individual State signature authority requirements.

Example: The State requires that signature authority, which binds a person to the terms of the document being signed, must be notarized. If the AIP elects to utilize the non-substantive statement contained in the DSSH for the Application, the required person may elect to grant signature authority on the Application or provide a separate POA.

If the required person grants authority on the Application, the Application is not subject to the signature requirements of the State. If the required person provides a POA to the AIP, the POA must be notarized in accordance with the signature requirements of the State.

The non-substantive signatory statement is effective from the date it is signed by the grantor and until it is rescinded, revoked, or dissolved. For example, the required person signs the statement on the application, accordingly, any subsequent crop insurance documents may be signed by the authorized representative until the authority is rescinded, revoked, or dissolved. Additionally, the death, disappearance or judicially declared incompetence of the grantor rescinds the signatory statement in accordance with the timelines regarding policy cancellation in Para. 231.

The signatory statement is considered rescinded, revoked, or dissolved when a change of insurance plans requires a new initial Application. The required person must sign the initial Application. The Policy Change modifies an existing Application; the non-substantive signatory statement remains in effect on the existing Application, unless canceled or revoked by the Policy Change.

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)

The requestor's interpretation of GSH Paragraph 855, is that a POA must be in writing and specify the powers granted to the authorized representative by the grantor and the POA must specify the person authorized, the period of authorization, and powers granted. The "powers granted" define the scope of a POA. Where the powers granted to the authorized representative extend only to a designated policy or policies, the POA has no applicability beyond the specified policy or policies. Similarly, where a POA limits the authority of the representative to policies issued or to be issued by a particular AIP, the POA is ineffective for purposes of policies issued or to be issued by a different AIP.

Federal Crop Insurance Corporation Determination

FCIC agrees with the requestor's interpretation of Paragraph 855 of the 2019 GSH. All POAs for crop insurance purposes must be in writing and provide the powers granted. When a POA is limited in scope, such as to a designated policy or AIP, the authority does not extend beyond those designations. Therefore, if a POA was limited to a designated policy or AIP, that POA would not be valid for other policies or AIPs and the individual granted authority through the POA would not have a valid signature on other policies with other AIPs.

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.