

**Federal Crop Insurance Corporation Provisions:**

**Subject:** A joint request dated October 15, 2021, submitted to the Risk Management Agency for a Federal Crop Insurance Corporation (FCIC) interpretation of section 25(a)(1) of the 2018 Whole-Farm Revenue Protection (WFRP) Pilot Policy.

The relevant policy provisions are:

**25. Claim for Indemnity.**

- (a) *You must submit a claim for indemnity declaring the amount of your loss not later than 60 days after the earlier of the date you filed your farm taxes with the Internal Revenue Service (IRS) or the original date that your farm tax forms for the policy year must be provided to the IRS, as specified by the IRS, except as provided in section 25(a)(3).*
  - (1) *You must have completed and filed your farm taxes with the IRS before you may submit a claim for indemnity.*
  - (2) *You must file your farm tax forms on or before the first day of the seventh month after the end of the insurance period, unless you have requested a Federal tax filing extension.*
  - (3) *If you have requested a Federal tax filing extension:*
    - (i) *You must submit a claim for indemnity declaring the amount of your loss not later than 60 days after the earlier of the date you filed your farm taxes with the IRS or final extended tax due date;*
    - (ii) *Your request for extension must have been filed by the date required by the IRS;*
    - (iii) *You must provide to us a copy of your request for an extension or a copy of your tax return showing the date signed, or a proof of mailing showing the date the return was filed, or, if required by us, you must request that the IRS send us verification of the date the return was filed; and*
    - (iv) *You must file your taxes on or before the final extended tax due date.*
- (b) *With respect to your completed Claim for Indemnity Report:*
  - (1) *You must provide:*
    - (i) *Your farm tax forms for the policy year, any farm tax amendments applicable to the policy year, and any additional documentation we require to adjust the revenue and expenses to complete the Allowable Revenue Worksheet and the Allowable Expense Worksheet for the policy year;*
    - (ii) *An Ending Inventory Report;*
    - (iii) *An Ending Accounts Receivable, Payable, and Prepaid Expenses Report;*
    - (iv) *Upon our request:*
      - (A) *Verifiable records that comprise a complete marketing record of each commodity on your farm operation, except for commodities sold through direct marketing;*
      - (B) *Direct marketing sales records that comprise a complete marketing record of each commodity on your farm operation sold through direct marketing;*

*and*  
(C) *For commodities that produced less actual revenue than expected revenue, additional verifiable records sufficient to determine the loss of revenue was caused by perils covered under this policy; and*

(v) *Information to complete the Farm Operation Report with final production and revenue information;*

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(c) *A claim cannot be settled:*

- (1) *Unless all conditions of subsections (a) and (b) have been met;*
- (2) *Until the policy year's farm tax forms are filed with the IRS; and*
- (3) *Until indemnities are received, as applicable, from all other policies issued under the authority of the Act that cover commodities insured under this policy.*

### **Interpretation Submitted by Requestor(s)**

#### **First Requestor's Interpretation:**

The first requestor's interpretation of section 25(a)(1) of the WFRP Pilot Policy is that an insured's notice to an Approved Insurance Provider (AIP) of a claim under the WFRP Pilot Policy specifying there is a loss of revenue may not be submitted until after, but not later than 60 days after the tax forms are filed. The first requestor also interprets section 25(a)(1) to mean that any other earlier or later notice of loss will not suffice to replace the claim submission requirements.

#### **Second Requestor's Interpretation:**

The second requestor interprets section 25(a)(1) of the 2018 WFRP Pilot Policy to require the insured to submit a claim for indemnity declaring the amount of their loss not later than 60 days after the earlier of the date the insured filed their farm taxes with the IRS, or the original date that the insured's farm tax forms are required to be provided to the IRS.

### **Federal Crop Insurance Corporation Determination**

FCIC agrees with the first requestor's interpretation of section 25(a)(1) of the 2018 WFRP Pilot Policy that a notice of loss does not suffice as a claim for indemnity. However, FCIC disagrees with both requestor's interpretations of section 25(a)(1) regarding when a claim for indemnity must be filed.

FCIC interprets section 25(a) of the 2018 WFRP Pilot Policy as requirements of the insured to mean that there are three different dates to use in determining when the insured must submit a claim for indemnity:

- (1) once the insured files their taxes with the IRS (on or before the due date for filing taxes), they must submit a claim for indemnity to the AIP no later than 60 days from the date the insured filed their taxes as stated in section 25(a)(1); or
- (2) if the insured has not filed their taxes by the original dates required by the IRS, the insured must submit a claim for indemnity to the AIP no later than 60 days after the original date their taxes were required to be filed with the IRS, and as stated in section 25(a)(2) the insured must file their taxes with the IRS on or before the first day of the seventh month after the end of their insurance period, or;

- (3) if the insured has requested a Federal tax filing extension, by the earlier of 60 days after they file their taxes with the IRS or the due date of the extension. Further, if the insured has requested a tax filing extension, they must have requested the extension by the dates required by the IRS, provide a copy of the extension request to the AIP, and file their taxes no later than the dates required by the extension. *See 25(a)(3)(i)-(iv).*

Furthermore, FCIC interprets section 25(c) of the 2018 WFRP Pilot Policy, as instructions to the AIP, to mean that if the insured has submitted their claim for indemnity as required by section 25(a), the AIP cannot settle the claim until the insured has filed their taxes with the IRS, provided all the applicable information required in section 25(b), and received all indemnities, if applicable, from all other policies authorized under the Act that cover commodities insured under their WFRP policy.

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.