

Risk Management Agency Interpretation of FCIC Provisions:

Subject: Request dated November 18, 2020, to the Risk Management Agency for an interpretation for the 2018 policy year in the determination of whether section 9(g) of the 2018 Whole-Farm Revenue Protection (WFRP) Pilot Policy authorizes an Approved Insurance Provider (AIP) to reduce an insured's approved revenue after coverage attaches.

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 requesters' interpretation is section 9(g) of the 2018 WFRP Pilot Policy does not authorize an AIP to reduce and insured's approved revenue after coverage attaches. While Section 9(g) of the WFRP Policy ostensibly permits the AIP to reduce approved revenue "at any time we become aware that the information used to determine your approved revenue is incorrect or is not supported by verifiable records," this does not relieve the AIP of its duty to underwrite the policy based upon truthful, accurate and timely information furnished to the AIP by the insured or available to the AIP through its own databases and claims and underwriting files for the same insured in prior years.

The requestor believes, it would be fundamentally unfair to allow the AIP to "sell" a WFRP policy at a certain level of coverage, and to have an insured and his crop production lender (or other third parties) reasonably rely upon the AIP's underwriting and verification of coverage at that level, only to have the AIP substantially reduce or even write down to zero the insured's coverage after substantial investment in the crop is made based upon the perceived management of risk through the WFRP policy.

The requestor further elaborates, that although the WFRP policy is reinsured by the FCIC, the AIP is not relieved of its duties to underwrite the policies competently and accurately where it has been provided truthful, accurate and timely information upon which coverage determinations could have and should have been made. Any other interpretation would discourage competency in underwriting and would create the perception in the minds of producers and lenders that WFRP coverage is illusory and cannot be relied upon as an effective risk management tool for the nation's farmers.

Federal Crop Insurance Corporation Determination

FCIC disagrees with the requestors' interpretation of section 9(g) of the 2018 WFRP Pilot Policy. 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.

However, FCIC agrees that section 9(g) of the 2018 WFRP Pilot Policy does not relieve the AIP of its duty to underwrite the policy accurately based on correct and timely information provided by an insured or available within its own databases.

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.