

Risk Management Agency Interpretation of FCIC Provisions:

Subject: Request dated August 5, 2020, to the Risk Management Agency for an interpretation regarding whether a producer is eligible under section 3(a)(4) or 3(e) of the 2017 Whole-Farm Revenue Protection (WFRP) Pilot Policy.

The relevant policy provision provided by the requestor is section 3(a)(4):

3. Eligibility

(a) *To be considered a qualifying person, you must:*

...

(4) *The Schedule F, or Substitute Schedule F, must cover 100 percent of your farm operation. (A tax entity which reports a fractional share of farming activity conducted by a partnership, corporation or any other "joint venture" does not qualify for WFRP coverage on the fractional share of farming activity); ...*

(e) *Originating pass-through entities may insure the allowable revenue from commodities produced by the farm operation under WFRP. Owners of a pass-through entity that are not the originating entity may not insure pass-through revenue or loss under WFRP.*

The relevant handbook procedure provided by the requestor is subparagraph 21(1)(d):

21. Eligibility

(1) *To be considered eligible for a WFRP policy, the insured must:*

...

(d) *have a Schedule F, or Substitute Schedule F that covers 100 percent of their farm operation. A tax entity which reports a fractional share of farming activity conducted by a partnership, corporation or any other "joint venture" does not qualify for WFRP coverage on the fractional share of farming activity. However, a tax entity may still qualify for WFRP coverage on a fractional share of a commodity in which they have an insurable interest.*

Interpretation Submitted by Requestor(s)

The requestors' interpretation of section 3(a)(4) and 3(e) of the 2017 WFRP Pilot Policy is that a farm operation (i.e., a partnership) may qualify for WFRP coverage under either WFRP Policy Section 3, subsection (a)(4) and/or subsection (e). The requestor is seeking an interpretation that an originating pass-through entity may qualify under either subsection (a)(4) or (e), so long as the entity has a percentage share in the commodities it physically produces, as opposed to having a percentage share in a separate farm operation that physically produces the commodities.

The requestor offers the following example:

Entity A is a general partnership made up of Entity B (a partnership) and individual C. Entity A is not a "farm operation" because it reports no farm activity to the IRS in the form of revenues or expenses. Moreover, Entity A is not an "originating entity" because it physically produces no commodities. Instead, Entity A is a storefront that holds the business name and goodwill for Entity B and individual C.

Entity B is a "single farm operation" because it reports 100 percent of its farm activity to the IRS in the form of revenue and expenses on its tax forms under a single taxpayer number. Entity B is also an "originating entity"

because it physically produces its percentage share of the commodities grown nominally under the name of Entity A.

Individual C is likewise a "single farm operation" because it reports 100 percent of its farm activity to the IRS in the form of revenue and expenses on its tax forms under a single taxpayer number. Individual C also actually physically produces its percentage share of the commodities grown nominally under the name of Entity A.

Entity B and individual C are not reporting a fractional share of the farming activity of Entity A because Entity A is not a "farm operation" and has no farming activity, and because Entity A does not actually, physically produce commodities.

Thus, in either of the above cases, the Entity B qualifies for coverage under WFRP Policy Section 3, subsections (a)(4) and/or (e) for the percentage of commodities it actually, physically produces. In either case, Entity B's percentage share of revenue from the commodities is "allowable revenue" because it was derived 100 percent from Entity B's "farm operation" as defined in the WFRP Policy. Moreover, Entity B's percentage share of the commodities was at financial risk of loss and was therefore an "insurable interest" as defined in the WFRP Policy.

Federal Crop Insurance Corporation Determination

FCIC disagrees with the requestors' interpretation that a farm operation may be eligible for coverage when meeting only some of the criteria required under section 3(a)(4) and 3(e) of the 2017 WFRP Pilot Policy and subparagraph 21(1)(d) of the 2017 WFRP Pilot Handbook. A farm operation must meet eligibility requirements of both sections 3(a)(4) and 3(e) for coverage under WFRP. A farm operation may meet the requirements of an originating pass-through entity within itself. However, if that same entity also reports a fractional share of another entity (farming activity), the entity is not eligible for coverage under WFRP. Using the example from the requestor's interpretation, Entity A is a partnership that includes Entity B and individual C. Entity A, holding the business name and goodwill of Entity B and individual C (i.e., marketing and selling the commodities produced), is the pass-through entity. Although Entity B may be considered an originating pass-through entity with regards to itself, it reports a fractional share of the general partnership (Entity A). Therefore, Entity B and individual C do not meet the requirements of eligibility within section 3(a)(4) under WFRP.

For clarity, subparagraph 21(1)(d) of the WFRP Pilot Handbook does allow a tax filing entity to obtain coverage on a fractional share of commodity for which the entity has an insurable interest. For example, an entity owns a farm operation that consists of 100 acres of commodity A with a 100 percent share of commodity A. The farm operation also consists of a 50 percent share of commodity B produced on another 100 acres. The entity would be eligible for WFRP coverage on the 100 percent share of commodity A and the 50 percent share of commodity B.

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.