

**Risk Management Agency Interpretation of FCIC Provisions:**

**Subject:** Joint request dated April 13, 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 whether a Whole-Farm Revenue Protection Pilot Policy issued to a corporation is void if the person signing the application lacks a properly executed power of attorney or other sufficient legal authorization to sign on behalf of the corporation.

The relevant policy and handbook procedures related to this request are WFRP Policy Sections 1, 2(a) and 4(h) and GSH Paragraphs 255, 831, 854 and 855:

**WFRP Policy**

**1. Definitions**

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**Application** - The form required to be completed by you and accepted by us before insurance coverage will begin.

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**Insured** - The named person as shown on the application accepted by us. This term does not extend to any other person having a share or interest in the crop such as, a partnership, landlord, or any other person, unless specifically indicated on the application accepted by us.

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**Void** - When the policy is considered not to have existed for a policy year.

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**2. Application**

(a) For your initial year of insurance, you must provide the completed, signed, application to your agent not later than the sales closing date \*\*\*

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**4. Life of Policy, Termination, and Cancellation**

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(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**

### **255 Corporations**

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The Application must be signed by a person authorized by the corporation to bind the corporation into contracts. Upon request, the insured must be able to provide written documentation from the corporation identifying the authorized representative of the corporation. The insured must provide to the AIP, in writing, the state in which the articles of incorporation/organization are filed.

### **831 The Application**

The Application is used to request insurance and must contain all of the information required by the policy. If the required information is not contained on the application, the application is not acceptable and insurance will not be provided.

### **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.

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#### **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.

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#### **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)**

First Requestor's Interpretation

The first requestor's interpretation of Section 4(h) of the WFRP Pilot Policy is that if the signature was previously, contemporaneously, or subsequently authorized, and the policy is further ratified by the corporation, on whose behalf the signature was applied to the document, by payment of the policy and the policy was ratified by the AIP by the issuance of the insurance coverage and acceptance of the premium, the policy is not void.

Second Requestor's Interpretation

The second requestor further interprets Section 1 of the WFRP Pilot Policy that an application must be completed and accepted before coverage will begin and Section 2(a) further requires the submission of a, "completed, signed, application to your agent not later than the sales closing date." The second requestor's interpretation is that when the person who signs a crop insurance application on behalf of a corporation lacks a properly executed POA or other sufficient legal authorization to bind the corporation to contracts, the application is invalid. Since coverage cannot incept without a completed and signed application. Any policy issued on the basis of an application signed by a person who lacks appropriate legal authority to do so is void.

**Federal Crop Insurance Corporation Determination**

FCIC disagrees with the first requestor's interpretation of the WFRP Pilot Policy Section 4(h). Section 4(h) is clear that the only way for a person to legally sign an application on behalf of another is with a properly executed power of attorney or such other legally sufficient document authorizing such person to sign. GSH Paragraph 255 states that the application for a corporation must be signed by a person authorized by the corporation to bind the corporation into contracts. The applicant must be able to provide written documentation from the corporation identifying the authorized representative(s) of the corporation. If the person signing the application does not appear in the documentation from the corporation identifying them as authorized to bind the corporation, then a valid POA must exist for the signature on the application to be valid. If the signature on the application is not valid, then the policy is void.

FCIC agrees with the second requestor's interpretation of the WFRP Pilot Policy Section 4(h) that if the person that signs an application on behalf of another does not have a properly executed power of attorney or such other legally sufficient document authorizing such person to sign, then the application is invalid and the policy is void. The applicant must be able to provide written documentation from the corporation identifying the authorized representative(s) of the corporation. Additionally, if the person signing the application is not identified in the articles of incorporation as a person authorized to bind the corporation into contracts, then a valid POA is the only means that such a person would be able to provide an acceptable signature on the application. If the signature on the application is not valid, then the policy is void.

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.