

Risk Management Agency Interpretation of FCIC Provisions:

Subject: Request dated November 18, 2020, to the Risk Management Agency for an interpretation regarding whether sections 49(a), (b), & (c) of the 2018 Whole-Farm Revenue Protection (WFRP) Pilot Policy and subparagraph 71(3)(a) & (b) of the 2018 WFRP Pilot Handbook allows for consideration of documentation that was not timely provided by an insured to the Approved Insurance Provider (AIP) per the deadlines in the policy.

The relevant policy provisions provided by the requestor are sections 49(a), (b), & (c):

49. Expanded Operations

- (a) *If you can show us your farm operation has physically expanded during the insurance period or lag year by adding production capacity to your farm operation (e.g., by adding land or an addition of a greenhouse), increasing use of existing production capacity (e.g., by double-cropping existing land or beginning production on high density orchards), or making physical alterations to existing production capacity (e.g., by adding irrigation to existing land or beginning production on certified organic acreage) we may at our discretion approve your farm operation as an expanding operation (we will not consider crop rotation or planting a higher value commodity without changes to your existing production capacity to be physical expansion. For example; if you planted more of your existing land to a high value commodity during the insurance period than in previous years, but did not otherwise change the production capacity of your farm operation, we will not approve your farm operation as an expanding operation). If so:*
- (1) *You must provide verifiable records that we agree are sufficient to determine the amount of revenue an expansion can be expected to generate during the insurance period;*
 - (2) *We will determine the amount of revenue from the expansion approved for the purpose of determining your expanding operation factor; and*
 - (3) *If more than one expansion is applicable to your farm operation, we will determine the amount of revenue approved for each expansion separately.*
- (b) *If your farm operation is expanding during the current insurance period you must provide all required records no later than the date you are required to submit your Revised Farm Operation Report.*
- (c) *If an expansion of your farm operation occurred in your lag year:*
- (1) *You must provide all required records by the later of the sales closing date or the first day of your insurance period; and*
 - (2) *We will determine the amount of revenue from the expansion based on information applicable to the insurance period. For example, the expected value for each commodity will be based on the price in the current year, regardless of the price of the commodity at the time the expansion occurred.*

The relevant handbook procedures provided by the requestor are subparagraphs 71(3)(a) & (b):

71 Revenue

...

- (3) *Expanded operation average revenue will be calculated for all applicants/insureds when the insured provides documentation indicating their operation is physically expanding either by adding production capacity to their farm operation (i.e., by adding land or an addition of a greenhouse), increasing the use of existing production capacity (e.g., by double-cropping existing land or beginning production on high density orchards), or making physical alterations to existing production capacity (e.g., by adding irrigation to existing land or beginning production on certified organic acreage) and is approved by the AIP. If so:*
- (a) *The insured must provide verifiable records that the AIP agrees are sufficient to determine the amount of revenue an expansion can be expected to generate:*
- (i) *For a farm operation that is expanding during the current insurance period, by the date on which the insured is required to submit their Revised Farm Operation; or*
- (ii) *For a farm operation where the expansion occurred during the lag year, by the later of the SCD or the first days [sic] of their insurance period.*
- (b) *The AIP will determine the amount of revenue from the expansion, using information applicable to the current insurance period (i.e., expected value), approved for the purpose of determining the expanding operation factor;*

Interpretation Submitted by Requestor(s)

The requesters' interpretation of sections 49(a), (b), and (c) of the 2018 WFRP Pilot Policy and subparagraphs 71(3)(a) and (b) of the 2018 WFRP Pilot Handbook concerning expanding operations is that any documentation provided by the insured to the AIP or the agent of record, in possession of the AIP, or otherwise made available to the AIP, within the time deadlines prescribed by the policy, including any extension of those deadlines permitted by the policy may be considered. For example, where the insured's coverage was provided by the same AIP in the prior crop year, and the cropping and revenue history of the insured was known to the AIP and verifiable from its own records, the arbitrator may consider any such documentation in resolving the dispute.

Furthermore, where the AIP determined that the insured qualified for an expanding operation factor based upon information and documentation furnished timely, and calculated the insured's approved revenue and the AIP's whole farm revenue protection liability based upon that expanding operation factor, but subsequent to one or more of the deadlines set forth in the WFRP policy changes its determination, the arbitrator may consider any information or documentation that might have been submitted but for the insured's reliance on the AIP's initial determination.

Federal Crop Insurance Corporation Determination

FCIC agrees with the requestors' interpretation that documentation provided by an insured, in possession of the AIP, or otherwise made available to the AIP may be considered provided the documentation supporting the farm operation expansion and submitted by the dates specified in

FCIC Interpretation of Procedure

sections 49(b) and (c) of the 2018 WFRP Pilot Policy and subparagraph 71(3)(a) of the 2018 WFRP Pilot Handbook. As stated, for a current year expansion, it is the date in which the Revised Farm Operation Report must be submitted and, for a lag year expansion, it is the later of the sales closing date or the insured's first day of insurance. Documentation submitted after either date specified may not be accepted. Likewise, an expanding operation may not be considered for which verifiable documentation is not provided by the date specified.

FCIC also agrees with the requestors' interpretation that an AIP which determined an expanding operation based on timely submitted documentation but subsequently changes its determination, may request and consider, although not required, additional verifiable documentation from the insured regarding the same expanding operation. However, the AIP may not consider documentation for an expanding operation, subsequent to the one in question, after the dates specified in sections 49(b) and (c) of the 2018 WFRP Pilot 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.