

Risk Management Agency Interpretation of Federal Crop Insurance Crop Provisions:

Subject: Request dated November 13, 2020, to the Risk Management Agency for an interpretation of whether the 2018 Whole-Farm Revenue Protection (WFRP) Pilot Policy section 25(a), (e)(2)(ii), and the 2018 WFRP Pilot Handbook exhibit 17E(2) establishes the Claim Finalization Date and the value that must be assigned to commodities unsold on the Claim Finalization Date.

The relevant policy provisions provided by the requesters are sections 25(a) and (e)(2)(ii):

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 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).*
- ...
- (e) *To calculate your revenue-to-count we will:*
- ...
- (2) *Adjust the revenue determined in paragraph (1) by making the following adjustments:*
- ...
- (ii) *Adding or subtracting, as applicable, to paragraph (2)(i), for all commodities produced on your farm operation, the value of your ending inventory less the value of your beginning inventory (the value of both the beginning and ending inventories will be the actual price received if the inventory is sold prior to the time your claim is finalized. If the inventory is not sold at the time we finalize your claim, the local market value on the first day of the month in which the claim is finalized will be used);*

The relevant handbook procedure provide by the requesters is exhibit 17E(2)

Exhibit 17 Inventory Valuation Guidelines

E. Commodities Other Than Commodities Held to Realize Gain, Purchased for Resale, Animals, Animal Products, Nursery, and Greenhouse

- (2) *For claims purposes, beginning and ending inventories will be valued at the:*
- (a) *actual price received if the commodity is sold prior to the time the claim is finalized;*
- or*
- (2) *local market value on the first day of the month in which the fiscal year ends for insured's who file taxes on a fiscal year basis."*

Interpretation Submitted by Requestor(s)

The first requester interprets Section 25(a) of the WFRP Pilot Policy to require that the insured 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 Internal Revenue Service (IRS) (referred to herein as the "Claim Finalization Date"). The first requester also interprets Section 25(a) as requiring the Claim Finalization Date to be the date by which a claim is to be finalized by an AIP and the amount of loss

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determined as of that date. As set forth in Section 25(e), if any inventory is not sold when the claim is finalized, an AIP must use the local market value of the first day of the month in which the claim is finalized for valuing inventory. When valuing stored and unsold inventory for claims purposes, the first requester interprets Section 25(e) to require an AIP to use the local market value on the first day of the month of the Claim Finalization Date as calculated pursuant to Section 25(a). In other words, the claim is to be “finalized” as of the Claim Finalization Date with the values of inventory being established as of that date. The ability to use the actual price received for inventory would require that the inventory be sold and payment received by the insured prior to the Claim Finalization Date. An AIP cannot use the actual price received for any inventory that is in storage or is not otherwise sold by the Claim Finalization Date. The language “at the time we finalize your claim” as set forth in Section 25 Section 25(e)(2)(ii) does not mean when an AIP reaches an agreement with the insured, issues a determination or pays an indemnity. To permit such an interpretation would make the date for determining the loss and valuing the inventory different on every claim and subject to manipulation by either the AIP or the insured.

The first requester also states their interpretation is consistent with Section 107(A)(1)(a)(b) of the 2018 Whole-Farm Revenue Protection Pilot Handbook, which provides that the claim for indemnity declaring the amount of loss must be submitted to an AIP no later than 60 days after the insured filed their taxes with the IRS. It should be noted that the 2019 Whole-Farm Revenue Protection Pilot Handbook (FCIC-181160) (11-2018) and the 2019 Whole-Farm Revenue Protection Pilot Policy were both revised for 2019 to allow an AIP to defer the adjustment of the loss up to 180 days from the date the insured filed a claim as contemplated in Section 25(a). However, in connection with the 2018 WFRP Pilot Policy, an AIP did not have the discretion to defer the final claim adjustment beyond the Claim Finalization Date. Accordingly, for a 2018 WFRP claim, if an insured has unsold commodities produced during the insurance period which are still in storage as of the Claim Finalization Date, an AIP is required to use the local market value on the first day of the month of the Claim Finalization Date.

The second requester interprets Section 25(e) of the WFRP and Exhibit 17(E)(2) of the Whole Farm Revenue Protection Pilot Handbook to mean that the actual price received for a commodity shall be used to value a commodity for claims purposes unless the commodity is not sold prior to the time the claim is finalized, and a claim is “finalized” for purposes of valuation under Section 25(e) and Exhibit 17(E)(2) when the loss adjuster has completed their work and the insured has signed the claim form.

Moreover, the second requester interprets “sold” to mean that the commodity is under contract for sale with a defined price or has otherwise been assigned a value under a contract for purchase. The second requester does not interpret “sold” to require that the commodity be in possession of the purchaser at the time the claim is finalized.

Finally, the second requester interprets “actual price” to include the contracted-for price of a commodity, even if payment for all or part of a commodity has not been made to the policyholder at the time the claim is finalized.

Federal Crop Insurance Corporation (FCIC) Determination

FCIC agrees with the first requester’s interpretation that the “Claim Finalization Date” is the date the insured submits their claim for indemnity as required by Section 25(a) of the 2018 WFRP Pilot Policy. FCIC also agrees with the first requester’s interpretation that commodities in storage or unsold on the Claim Finalization Date will be valued using the local market price on the first day of the month of the Claim Finalization Date or if sold the actual price received by the insured. For example, the insured

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files their taxes with the IRS on March 1, 2019. The insured submits a claim for indemnity on April 3, 2019 (within 60 days of the date they filed taxes). The Claim Finalization Date is April 3, 2019, and any commodity in storage or unsold as of April 3, 2019, will be valued using the local market value as of April 1, 2019.

FCIC disagrees with the second requester's interpretation that section 25(e) of the 2018 WFRP Pilot Policy that a claim is finalized for the purposes of valuation when the adjuster has completed their work and the insured has signed the claim form. However, FCIC agrees with the second requester's interpretation that "actual price" includes the contracted price of a commodity, but only if the commodity was under contract for sale as of the Claim Finalization Date.

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.