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# **New FCIC rules give direct marketers more flexibility on crop insurance**

By John Lovett

U of A System Division of Agriculture

## Fast facts

* Records from “disinterested third party” not required for small-scale producers
* “Production record” redefined by Federal Crop Insurance Corp.
* New Direct Marketing and Verifiable Records section provides guidance

(719 words)

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FAYETTEVILLE, Ark. — Farmers and ranchers who sell their bounty at roadside stands and farmers markets could find it easier to obtain crop insurance or file a claim with [recent updates](https://nationalaglawcenter.org/checking-in-on-crop-insurance-fcic-final-rule-amends-common-crop-insurance-policy/) to the Federal Crop Insurance Program’s Common Crop Insurance Policy.

The Federal Crop Insurance Corporation (FCIC), a wholly owned federal corporation that administers the program, added a new section titled Direct Marketing and Verifiable Records to the policy to guide those who intend to directly market any portion of their harvest.

According to Micah Brown, staff attorney with the National Agricultural Law Center, increasing flexibility to obtain crop insurance and file a claim are the intentions of the amendments.

“Not all producers have disinterested third-party records they can provide to verify their actual production,” Brown said. “For instance, some producers directly market their insured commodity to consumers through on-farm or roadside stands, farmers markets, or agritourism enterprises.”

The FCIC requires farmers and ranchers to supply certain production records to obtain FCIP crop insurance coverage. The [new rules](https://www.federalregister.gov/documents/2022/06/30/2022-13411/crop-insurance-reporting-and-other-changes-ciroc) allow producers to provide documents of their harvest outside of a “disinterested third party,” which is someone without a family connection or a stake in the business, Brown said. Producers were previously required to provide production records from disinterested third parties or have a pre-harvest appraisal conducted by their approved insurance provider to verify crop production.

Another amendment to the policy requires producers to appeal an adverse determination of “good farming practices” within 30 days of a noncompliance notice. For producers to receive an insurance indemnity under their policy, they must follow the [USDA’s guidelines of “good farming practices.”](https://www.rma.usda.gov/-/media/RMA/Publications/Risk-Management-Publications/good_farming_practices.ashx?la=en) Brown noted that producers typically exercise good farming practices when implementing methods generally recognized for the normal production of their insured crop.

“Occasionally, a producer’s insurance provider denies their loss claim under their policy because the insurer determines good farming practices were not followed,” Brown explained. “Under the terms of the new policy, producers have 30 days to appeal the insurer’s determination to FCIC for consideration.”

The revisions to the policy apply to most crop insurance policies with a change date on or after June 30, 2022. The FCIC will continue to consider public comments until Aug. 29, 2022.

Producers must still support their crop insurance policy with “acceptable production records” such as certified scale weight records, pick records, machine harvest records and daily sales records. “Production record” in the amended policy is defined as a “written record that documents [a producer’s] actual production reported on the production report.”

The FCIC uses these crop production records to determine a producer’s insurance coverage.

Brown said that the new rules expand the types of acceptable production records direct-marketing producers may provide for insurance coverage, report their annual production, and file a claim under their policy.

## Direct Marketing and Verifiable Records details

The new Direct Marketing and Verifiable Records section requires producers to notify the FCIC and complete a marketing certification if they intend to direct market any portion of their crop or do not have acceptable verifiable records when required under the policy. Producers must complete these two requirements by the acreage reporting date for their crop. If a producer alters their marketing plans, they must provide the FCIC notice of the change no later than 15 days before harvesting the crop.

The new section also provides more flexibility on production reports. Suppose a producer has difficulties providing the necessary production reports required under the Federal Crop Insurance Program due to how their farming operation is structured. In that case, the Common Crop Insurance Policy permits producers to request pre-harvest appraisals.

“While a pre-harvest appraisal will not be used to calculate an indemnity if the appraisal is conducted before the producer submits a loss claim, the report obtained from such an appraisal will support the producer’s production records necessary to participate in the Federal Crop Insurance Program,” Brown explained.

If timely notice is not provided to the FCIC on changes, marketing certification, and acceptable production records, they will receive an assigned yield that is 75 percent or less of the yield used by the FCIC to determine the producer’s coverage for the previous crop year.

The [National Agricultural Law Center](https://nationalaglawcenter.org/) is based in Fayetteville, Arkansas, but serves the nation’s vast agricultural community and is a key partner of the U.S. Department of Agriculture’s National Agricultural Library.

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