

**For:** State and County Offices

**Clarification for Issuing Market Loss Assistance (MLA) Payments and  
Issuing Payments to Producers Involved in Bankruptcy Proceedings**

**Approved by:** Deputy Administrator, Farm Programs



**1 Overview**

**A**

**Background**

Notice PF-189 reminded County Offices:

- to begin processing all final FY 2002 PFC payments on August 2, 2002
- of the policy for withholding payments from eligible producers, including bankruptcy cases.

Since this notice was issued, several questions have been raised about the policy and procedure for issuing:

- remaining MLA payments
- payments to producers involved in bankruptcy proceedings.

**B**

**Purpose**

This notice clarifies the policy about issuing:

- remaining MLA payments
- payments to producers involved in bankruptcy proceedings.

<b>Disposal Date</b>	<b>Distribution</b>
January 1, 2003	State Offices; State Offices relay to County Offices

## Notice PF-191

### 2 Issuing MLA Payments

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#### A

#### MLA Payments

Section 1617 of the Farm Security and Rural Investment Act of 2002 (the Act) provides that funds may be used as necessary to provide MLA payments to persons that:

- were eligible to receive the assistance
- did not receive the assistance before October 1, 2001.

A statutory deadline is not specified in the Act, therefore the September 30, 2002, deadline is not applicable for MLA payments.

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#### B

#### County Office Action

County Offices shall continue to issue MLA payments to eligible producers through the regular payment process in the normal manner.

If the MLA payment cannot be issued through the regular payment process, County Offices shall submit the case file to the State Office for forwarding to the National Office for an authorization code.

**Note:** 2-PF, paragraph 198 outlines the documentation that shall be submitted when requesting authorization codes. The case file shall include **all** of the documentation outlined in 2-PF, paragraph 198, except CCC-479B.

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#### C

#### State Office Action

State Offices shall:

- ensure that the 2-PF documentation requirements have been met by the County Office
- review the case to ensure the request for authorization codes is valid
- **immediately** forward valid requests to:
  - DAFP for cases involving requests for relief and misaction/misinformation

**Note:** See 2-PF paragraphs 196 and 197 for a description of the types of cases that require DAFP approval.

- PECD for cases that do not require DAFP approval.
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**Notice PF-191**

**3 Issuing Payments for Producers Involved in Bankruptcy Proceedings**

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**A**

**FY 2002  
Bankruptcy  
Cases**

For bankruptcy cases involving FY 2002 PFC payments that are resolved after September 30, 2002, PFC payments will be issued according to the following.

**Reminder:** County Offices are not authorized to “hold” a check or EFT pending resolution of the bankruptcy proceedings. See paragraph 4 for provisions on withholding payments.

<b>IF the farm is...</b>	<b>THEN the PFC payments will...</b>
enrolled in DCP	not be issued because the payments will be issued under DCP.
not enrolled in DCP	be issued through an authorized payment process.  <b>Note:</b> County Offices shall submit requests for authorization codes according to 2-PF, paragraph 198.

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**B**

**FY 2001 and  
Prior Year  
Bankruptcy  
Cases**

For bankruptcy cases resolved after September 30, 2002, County Offices shall continue to submit requests for authorization codes for FY 2001 and prior year PFC payments according to 2-PF, paragraph 198.

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## Notice PF-191

### 3 Issuing Payments for Producers Involved in Bankruptcy Proceedings (Continued)

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#### C

**Escrow Accounts** Notice PF-189 specified that PFC payments shall not be issued unless either of the following occurs before September 30, 2002:

- Regional Attorney provides written guidance to the State and County Office that the payment can be issued to either of the following:
  - to the producer
  - to CCC as an offset to satisfy a debt
- if the bankruptcy case has not been resolved, the FY 2002 PFC payment can be issued and deposited into an escrow account for later disposition.

By including the option to deposit the payment in an escrow account, some confusion exists as to how payments shall be deposited and whether State and County Offices should be establishing escrow accounts for this purpose.

Policy has not been established that authorizes FSA Offices to establish escrow accounts. However, if an escrow account has been established as part of the bankruptcy proceedings, the option may be available to issue the payment for deposit into the escrow account for later disposition.

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### 4 Withholding Payments

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#### A

#### Policy

Payments can be withheld from an eligible producer if approval is received according to 58-FI, paragraph 177. If approval is received to withhold a producer's payments, then County Offices shall:

- **not** process CCC-184's and "hold" the checks in the office safe pending approval to release the check
  - **not** process EFT's and suspend transmission pending approval to release the payment
  - immediately cancel the payments if the system generates CCC-184 or EFT.
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