UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

Notice PL-227

For: State and County Offices

Handling Overpayments Because of Member Contribution Updates

Approved by: Acting Deputy Administrator, Farm Programs

Bradley Karmen

1 Overview

A Background

Notice PL-226 provided clarification for updating "member contribution" for System 36 changes to the entity and joint operation file for 2009 through 2011.

In the near future, Kansas City will trigger payments to reprocess for all joint operations and entities to identify any producer that may be underpaid or overpaid.

B Purpose

This notice provides guidance for handling any receivables established, because of changes made to member contribution values, because of guidance provided in Notice PL-226.

2 Overpayments Because of Member Contribution

A 2009 and 2010 Receivables

County Offices shall continue to follow Notice PL-226 for properly updating member contribution flags for 2009 and 2010.

Receivables established for 2009 or 2010, because of updating member contribution values as provided in Notice PL-226, shall be subject to the Finality Rule provisions in 7-CP.

Disposal Date	Distribution
February 1, 2012	State Offices; State Offices relay to County Offices

2 Overpayments Because of Member Contribution (Continued)

B 2011 Member Contribution Values

For 2011, the action required is contingent on whether the correct determination was made by COC about which members were required to provide labor and/or management to meet member contribution provisions.

IF the member contribution determination made by COC was…	**THEN...**
correct according to 4-PL	• the system shall be updated according to Notice PL-226 to reflect the COC's determination to ensure that 2011 final payments are processed properly • receivables identified because of the system being updated are **not** subject to finality rule provisions.

not correct according to 4-PL	• County Office shall notify the producer using the example notification letter in 4-PL, subparagraph 244 B, that:
	
	  • an incorrect determination was made for 2011, but a default determination is applicable
	
	  • final payments will be issued based on COC's original determination
	
	  • COC will make a new determination for 2012
	
	• County Offices shall update the system for 2011 based on the default determination
	
	• COC shall make the correct determination for 2012 and notify the producer accordingly
	
	• County Offices shall update the system for 2012 based on the new COC determination as incorrect values will be rolled over for 2012.

2 Overpayments Because of Member Contribution (Continued)

B 2011 Member Contribution Values (Continued)

Example: A corporation is comprised of 2 members, 1 individual and 1 irrevocable trust. The irrevocable trust is comprised of 4 beneficiaries, each with a 25 percent ownership interest.

The individual member meets the member contribution provisions, but only 1 of the beneficiaries of the irrevocable trust are providing labor and/or management.

IF COC determined the irrevocable trust…	**THEN the determination was…**
did **not** meet member contribution provisions for 2011	correct and any DCP and/or ACRE payments that have been issued are overpaid and receivables shall be established so debt collection can be pursued.
was eligible for 25 percent of the payments based on the 1 member's contribution	incorrect and a default determination is applicable. To issue the 2011 payments based on the 25 percent eligibility, County Offices shall update the 2011 entity file for the trust as follows: • "P" member contribution flag to indicate partial eligibility • 25 percent partial member contribution percentage. After rollover for 2012, County Offices shall ensure that the 2012 entity file is updated to reflect the new determination made by COC indicating the trust does **not** meet member contribution provisions. **Note:** See Notice PL-222, subparagraph 2 D for updating member contribution flag to "P".

3 Action

A State Office Action

State Offices shall:

- ensure that County Offices are immediately informed of the contents of this notice
- contact the applicable program manager or specialist in PECD, if additional guidance is needed
- complete one FSA-321 to include all applicable receivables.

B County Office Action

County Offices shall:

- thoroughly review the provisions in this notice
- review the Nonpayment and Pending Overpayment Reports accessible through the Common Payment Reports System to identify 2009 and 2010 payments or overpayments in which a trust/estate is a member of an entity or joint operation

  Notes: See 9-CM for additional information on the Common Payment Report System.

  For 2009 and 2010 producers will be listed on the Pending Overpayment Report for 10 workdays **before** being automatically transferred to NRRS.

- apply the Finality Rule provisions according to 7-CP to applicable receivables
- complete one FSA-321 to include all applicable receivables
- following approval of the FSA-321, follow procedure in 64-FI about disposition of 2009 and 2010 receivables subject to the Finality Rule provisions
- follow the guidance in subparagraph 2 B for handling member contribution updates for 2011 and 2012
- contact their State Office if additional guidance is needed.