

For: State Offices and Service Centers

**2003 Advance Counter-Cyclical Overpayments**

Approved by: Deputy Administrator, Farm Programs



**1 Overview**

**A Background**

The Farm Security and Rural Investment Act of 2002 provides for counter-cyclical payments for covered commodities and peanuts beginning with crop year 2002.

First advance counter-cyclical payments for 2003 crops were issued in October 2003 for the following:

- wheat
- rice
- upland cotton
- peanuts
- corn
- sorghum.

Second advance counter-cyclical payments for 2003 crops were issued in February 2004 for the following:

- rice
- peanuts.

Producers signing the 2003 Direct and Counter-Cyclical Program (DCP) contract agreed to refund any unearned counter-cyclical payment received that exceeded the amount actually earned under the contract.

<b>Disposal Date</b>	<b>Distribution</b>
February 1, 2005 4-29-04	State Offices; State Offices relay to Service Centers

## Notice DCP-109

### 1 Background (Continued)

#### B Purpose

This notice:

- informs State and County Offices that:
  - there is the potential that under current market prices producers who received 2003 advance counter-cyclical payments may be required to repay all or a portion of these payments
  - producers will have the option to refund unearned advances by reducing future DCP payments or by following procedures established under the Debt Collection Improvement Act of 1996 (DCIA)
  - a letter will be mailed from Kansas City on or about May 3, 2004, informing producers of their options (see Exhibit 1)
- instructs County Offices to:
  - correct outstanding conditions for current counter-cyclical overpayments as soon as possible, if applicable
  - ensure all legitimate current 2003 counter-cyclical overpayments are processed and transferred to receivables immediately.

### 2 Unearned 2003 Counter-Cyclical Payments

#### A Introduction

2003 advance counter-cyclical payments have been issued for wheat, rice, upland cotton, corn, sorghum, and peanuts. The advance payments were issued because the target price for the crop exceeded the projected effective price for the first or second counter-cyclical payment cycle, as applicable.

If market prices continue near current levels, producers may be required to refund all or a portion of the 2003 counter-cyclical payment received for some crops.

System processing will be modified to provide for an overpayment process that will consider the overpayment to be an unearned advance that would be reduced from future DCP payments.

## Notice DCP-109

### 2 Unearned 2003 Counter-Cyclical Payments (Continued)

#### B 2003 Counter-Cyclical Overpayment Processing

Current overpayment processing provides 2 separate options for computing and transferring overpayments to receivables. System processing will continue as 2 separate options until October 2004.

Starting on or about October 12, 2004, the 2003 counter-cyclical overpayment process will be changed as follows:

- overpayment processing will only provide for processing “ALL” overpayments as a batch instead of allowing additional processing options by farm or a range of farms
- the overpayment process will consider **all** overpayments to be unearned advance payments and will automatically transfer all overpayments to the receivable system without user intervention.

**Note:** It is extremely important that all legitimate overpayments determined before the change in the overpayment process are computed and transferred to receivables according to 67-FI immediately. This will avoid including those overpayments occurring for reasons other than unearned advance payments in the new batch process.

Overpayment amounts **are not known** at this time and will not be known until after the end of each crop’s marketing year. Final counter-cyclical payment rates will be calculated, and the amount of unearned counter-cyclical payments for each producer, will be determined according to the following schedule:

- July 2004 - wheat
- September 2004 - peanuts
- October 2004 - corn, sorghum, and upland cotton
- February 2005 - rice.

The new process will be available on or about October 12, 2004. At this time, any overpayments for wheat, upland cotton, peanuts, corn, and sorghum will be processed and sent to the receivables system. This process will be run before issuing final 2004 DCP payments.

**Note:** If overpayments exist for rice, the process will be rerun in February 2005.

## Notice DCP-109

### 2 Unearned 2003 Counter-Cyclical Payments (Continued)

#### C Collecting Unearned Advance Counter-Cyclical Payments

On or about May 3, 2004, Kansas City will send the letter in Exhibit 1 to all producers who received a 2003 advance counter-cyclical payment. The letter will inform producers that all or a portion of the 2003 advance counter-cyclical payment may have to be refunded.

**Note:** The producer will receive only 1 letter no matter how many counties they received a counter-cyclical payment in.

The producer will have the following 2 options for repayment:

- Option 1 - CCC will automatically reduce any DCP payment received between October 2004 and March 30, 2005, to satisfy the obligation to repay the unearned advance. Any overpayment amount not satisfied by March 30, 2005, will be transferred to receivables and begin normal collection procedures according to 67-FI.
- Option 2 - the producer may elect to repay the unearned counter-cyclical payment by following procedure under DCIA. Under DCIA the producer will be sent an initial notification following the end of each crop's marketing year notifying them of the debt and followed by a first demand letter.

Under either option, a producer may settle the debt at any time by writing a check to CCC.

Option 1 will be the default option. The letter will inform producers that if they are satisfied with the convenience of Option 1, they do not need to take any action. Option 1 offers many advantages:

- the producer does not need to take any action - the deduction from future DCP payments will be automatic
- the producer will not have to write a check to CCC to satisfy the obligation
- the producer will not be charged interest for the obligation automatically deducted between October 2004 and March 2005
- the producer will receive a statement showing the amount reduced to satisfy the counter-cyclical overpayment when the payment reduction is made.

Producers must inform the County Office by June 15, 2004, if they elect Option 2. A future notice will provide procedure on how to handle refunds under Option 2.

## Notice DCP-109

### 3 State and County Office Action

#### A State Office Action

State Offices shall ensure that County Offices are immediately informed of the contents of this notice.

#### B County Office Action

County Offices shall:

- correct outstanding conditions for current 2003 counter-cyclical overpayments as soon as possible, if applicable
- ensure all legitimate 2003 counter-cyclical overpayments are processed and transferred to receivables according to 67-FI immediately
- accept any payment made by the producer to settle the debt before October 12, 2004.

## Letter to Producers Explaining Options



## Farm Service Agency

Dear Producer:

May 3, 2004

**This letter provides you two options by which you can resolve a potential refund of counter-cyclical payments you may owe the Commodity Credit Corporation (CCC) under the 2003 Direct and Counter-Cyclical Program (DCP).**

Under the 2003 DCP, you received advance counter-cyclical payments. In accordance with section 1104 of the Farm Security and Rural Investment Act of 2002, when you signed the DCP contract you agreed to refund any advance counter-cyclical payments you receive which exceed the amount actually earned under this contract. Under the options presented in this letter, you may write a check to CCC anytime after the amount of the overpayment has been determined.

CCC issues advance counter-cyclical program payments when the target price for the commodity exceeds the projected effective price. The effective price equals the direct payment rate plus the higher of the national average price received by producers during the 12-month marketing year or the loan rate. CCC issued first-advance counter-cyclical payments for wheat, corn, sorghum, cotton, rice, and peanuts in October 2003. CCC issued second-advance payments for rice and peanuts in February 2004. Advance counter-cyclical payments were not issued for soybeans, barley, oats, and oilseeds.

**If market prices continue near current levels, you may be required to refund all or a portion of the 2003 counter-cyclical payments you received for some crops.** Final counter-cyclical payment rates will be calculated, and the amount you will be required to refund, if any, will be determined, according to this schedule: July 2004 for wheat; September 2004 for peanuts; October 2004 for corn, sorghum, and upland cotton; and February 2005 for rice.

**REFUND OPTION 1:** CCC will automatically reduce any DCP payments you receive between October 2004 and March 2005 to satisfy your obligation to repay the unearned 2003-crop advance counter-cyclical payments. Scheduled payments you may receive during this period include 2004-crop final direct payments, 2004-crop advance counter-cyclical payments, and 2005-crop advance direct payments.

This method offers many advantages: (1) you need not take any action--the FSA Service Center will automatically take deductions from future DCP payments; (2) you will not have to write a check to CCC to satisfy this obligation; (3) you will not be charged interest for the obligation automatically deducted between October 2004 and March 2005; and (4) when the payment reduction is made, you will receive a statement showing the amount reduced to satisfy the counter-cyclical overpayment. If you will not be earning DCP payments during this time or your DCP payments are insufficient to repay the total unearned advances, CCC will notify you in April 2005 that the refunds will be collected using the procedures established under the Debt Collection Improvement Act of 1996. **If you are satisfied with the convenience of REFUND OPTION 1, you do not need to take any action.**

**REFUND OPTION 2:** If you elect not to use the above method, notify the FSA Service Center(s) that issued the payments that you wish to repay your unearned counter-cyclical payments by following procedures under the Debt Collection Improvement Act of 1996 (DCIA). Under DCIA, you will be sent an initial notification following the end of each crop's marketing year that will inform you of the specific amount of the debt, followed by a first demand letter approximately 30 days later. At that time, you may settle the debt by writing a check to CCC. If you have not sent CCC a check within 30 days, you will receive a second demand letter. Interest will begin to accrue from the date of the first demand letter and CCC will offset any subsequent CCC payment or commodity loan you receive to settle any unearned payments. **Please inform your FSA Service Center by June 15, 2004, if you wish to use REFUND OPTION 2 instead of the automatic reduction explained in REFUND OPTION 1.**

Again, if you wish to use Option 1, no action is required. You can get additional information concerning these options by visiting our Frequently Asked Questions (FAQ) at <http://www.fsa.usda.gov/pas/farbill/default.asp>.

Sincerely,

John A. Johnson  
Deputy Administrator for Farm Programs

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