

For: State Offices and Service Centers

2004 Advance Counter-Cyclical (CC) Overpayments

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

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

The first advance CC payments for crop year 2004 were issued in October 2004 for the following crops:

- barley
- corn
- grain sorghum
- oats
- peanuts
- rice
- soybeans
- upland cotton
- wheat.

The 2004 second advance CC payments for crop year 2004 were authorized to be issued starting in February 2005.

Disposal Date	Distribution
May 1, 2006 4-26-05	State Offices; State Offices relay to Service Centers

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1 Background (Continued)

B Purpose

This notice:

- informs State and County Offices that:
 - there is the potential that producers who received advance CC payments for crop year 2004 may be required to repay all or a portion of these payments because of the market price
 - producers will have the option to refund unearned advance payments 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 06, 2005, informing producers of their options (see Exhibit 1)
- instructs County Offices to:
 - correct outstanding conditions for current CC overpayments as soon as possible, if applicable
 - ensure that all legitimate current CC overpayments for crop year 2004 are computed and transferred to receivables immediately.

2 Unearned 2004 CC Payments

A Introduction

Advance CC payments for crop year 2004 have been issued for barley, corn, grain sorghum, oats, peanuts, rice, soybeans, wheat, and upland cotton. The advance payments were issued because the target price for the crop exceeded the projected effective price for the first and/or second CC payment cycle, as applicable.

If market prices continue near current levels, producers may be required to refund all or a portion of the 2004 advance CC payments received.

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.

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2 Unearned 2004 CC Payments (Continued)

B 2004 CC Overpayment Processing

Current overpayment processing provides for computing overpayments by farm, a range of farms, or "ALL". System processing will continue to provide 3 methods for selection until October 2005.

Starting in October 2005, the 2004 CC 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 identified 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 CC payment rates will be calculated, and the amount of unearned CC payments for each producer, will be determined according to the following schedule:

- July 2005 – barley, oats, and wheat
- September 2005 - peanuts
- October 2005 - corn, grain sorghum, soybeans, and upland cotton
- February 2006 - rice.

The new processing method will be available in October 2005. At that time, any overpayments for barley, corn, grain sorghum, oats, peanuts, soybeans, wheat, upland cotton will be processed and sent to the receivables system. It will be required that 2004 CC overpayments are processed before issuing final 2005 DCP payments.

Note: If overpayments exist for rice, the process will be re-run in February 2006.

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2 Unearned 2004 CC Payments (Continued)

C Collecting Unearned Advance CC Payments

Kansas City will send the letter in Exhibit 1 on or about May 6, 2005, to all producers who received a 2004 advance CC payment. The letter will inform producers that all or a portion of the 2004 advance CC payment may have to be refunded.

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

The producer will have the following 2 options for repayment.

- Option 1 - CCC will automatically reduce any DCP payment received between October 1, 2005 and October 31, 2006, to satisfy the obligation to repay the unearned advance. Any overpayment amount not satisfied by October 31, 2006, will be transferred to receivables and begin normal collection procedures according to 67-FI.
- Option 2 - the producer may elect to repay the unearned CC 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 the following advantages.

The producer:

- does not need to take any action, the reduction from future DCP payments will be automatic
- will not have to write a check to CCC to satisfy the obligation
- will not be charged interest for the obligation automatically deducted between October 2005 and October 2006
- will receive a statement showing the amount reduced to satisfy the CC overpayment when the payment reduction is made.

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2 Unearned 2004 CC Payments (Continued)

D Repaying Unearned Payments for Producers Who Chose Option 1

Advance CC overpayments for crop year 2004 will automatically be offset from future DCP payments. The County Office will not be required to print manual checks and deposit the funds. Unearned 2004 CC advance payments will be reduced from the following DCP payments:

- 2004 Final CC
- 2005 Final Direct
- 2005 Advance CC
- 2006 Advance Direct.

3 Special Circumstance Action

A Bankruptcy

The County Office shall follow procedures already in place for producers who have filed bankruptcy. The County Office shall refer to 67-FI.

B Deceased Producers

County Office shall follow the policy in 1-DCP, paragraph 394 for deceased producers.

C Successor-in-Interest

County Office shall follow the policy in 1-DCP, paragraph 393 for successor-in-interest.

D Overpayments less than \$35

All 2004 CC overpayments less than \$35 will be transferred to CRS and offset from DCP payments.

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4 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 2004 CC overpayments as soon as possible, if applicable
- ensure that all legitimate 2004 CC overpayments are immediately computed and transferred to CRS according to 67-FI
- accept any payment made by the producer to settle the debt.
- update records for all producers who have filed bankruptcy, are now deceased, or are succession-in-interest cases.

Letter to Producers Explaining Options



Farm Service Agency

Dear Producer:

May XX, 2005

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 2004 Direct and Counter-Cyclical Program (DCP). You were provided similar options for refunds of counter-cyclical payments you may have owed under the 2003 DCP.

Under the 2004 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 in October 2004 and second-advance payments in February 2005.

If market prices continue near current levels, you may be required to refund all or a portion of the 2004 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 2005 for wheat, barley, and oats; September 2005 for peanuts; October 2005 for corn, sorghum, soybeans and upland cotton; and February 2006 for rice.

REFUND OPTION 1: CCC will automatically reduce any DCP payments you receive between October 2005 and October 2006 to satisfy your obligation to repay the unearned 2004-crop advance counter-cyclical 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 2005 and October 2006; and (4) when the payment reduction is made, you will receive a statement showing the amount reduced to satisfy the counter-cyclical overpayment. If your DCP payments are insufficient to repay the total unearned advances, CCC will notify you in November 2006 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, 2005, 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.

Sincerely,

John A. Johnson
Deputy Administrator for Farm Programs

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