

For: State Offices and Service Centers

2001 Sugar Payment-In-Kind (PIK) Program

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A

Background

On August 31, 2001, the Secretary announced that CCC will implement a 2001 Sugar PIK Program to reduce USDA's surplus sugar and reduce government outlays. The program offers sugar beet and sugarcane farmers the choice of reducing 2001 crop year production in exchange for CCC inventory sugar.

Producers submit offers that reflect the dollar value of CCC inventory sugar per acre that the producer is willing to accept in exchange for forgoing harvest of a specific number of acres.

The program will reduce the:

- amount of sugar in CCC inventory
- amount of sugar forfeitures otherwise expected
- overall storage cost to CCC otherwise expected.

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Disposal Date	Distribution
April 1, 2002	State Offices; State Offices relay to Service Centers

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1 Overview (Continued)

B

Purpose

This notice provides State FSA Offices and Service Centers policies and procedure for implementing the 2001 Sugar PIK Program, including information about:

- the signup process
 - signup period
 - eligible producers
 - eligible land
 - payments and shares
 - submitting offers
 - withdrawing and modifying offers
 - offer evaluation and notification
 - use of accepted acres
 - producer violations
 - the responsibilities of the:
 - State Offices
 - Service Centers
 - producers
 - other general information.
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2 Summary of Signup Process

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Signup Activities The following table describes the signup, offer selection, producer notification, and compliance activities.

Step	Action	Reference
1	Eligible producers may submit offers and sign contracts to participate in the 2001 Sugar PIK Program beginning September 10, 2001, through September 21, 2001.	Paragraphs 3 and 7
2	FSA Service Centers and eligible producers complete automated CCC-744 to determine the per acre offer amount and the number of acres offered.	Paragraph 7
3	Eligible producers and the sugar processor modify their existing grower contracts to reflect the number of acres that are offered.	Paragraph 7
4	Offer data is transmitted to KC-ITSDO for evaluation, validation, and ranking processes.	Paragraph 7
5	National Office and KC-ITSDO review the offer data and contact applicable Service Centers and processors concerning questionable or erroneous data.	Paragraph 8
6	National Office evaluates, ranks, and takes action on eligible offers.	Paragraph 8
7	<p>USDA issues press release announcing the bids that are accepted based on the ranking cutoff level.</p> <p>DAFP issues a notice to provide procedure for:</p> <ul style="list-style-type: none"> • approving CCC-744 for accepted offers • conducting program compliance. <p>KC-ITSDO notifies producers:</p> <ul style="list-style-type: none"> • of accepted and rejected offers • to contact Service Center to designate the acreage that will not be harvested. 	Paragraph 8
8	For acceptable offers, Service Center verifies offer data and signs CCC-744.	Procedure will be provided in a future notice
9	Service Center completes compliance activities and spot checks.	

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3 2001 Sugar PIK Signup Period

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Signup Period

The signup period for submitting offers for the 2001 Sugar PIK Program is September 10, 2001, through September 21, 2001. COC shall reject offers submitted after close of business September 21, 2001.

4 Land and Producer Eligibility Requirements

A

Eligible Land

For the 2001 Sugar PIK Program, eligible land is land that meets **all** of the following:

- planted to 2001 crop year sugar beets or sugarcane at the time the land is offered

Note: Harvested acreage is **not** eligible.

- is under a contract with a sugar processor for the delivery of sugar beets or sugarcane for sugar
- a crop insurance indemnity payment, federal or private, has **not** been paid, applied for, nor will be applied for on the acres offered

Note: A crop insurance replant payment is **not** an indemnity payment. Land for which a crop insurance replant payment has been received is eligible to be offered provided all other eligibility requirements are met.

- the acres offered have not been previously released by the sugar processor
 - the planted sugar beets or sugarcane on the acres offered are harvestable and would be harvested for sugar in 2001, if not accepted in the 2001 Sugar PIK Program
 - the minimum size requirements according to subparagraph B.
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4 Land and Producer Eligibility Requirements

B

Minimum Size Requirements

To be eligible for the 2001 Sugar PIK Program the acreage offered must meet the following size requirements. If the total number of acres a producer offers is:

- less than or equal to 15 acres, then the acreage offered must consist of 1 of the following:
 - 1 area of contiguous land
 - 1 or more entire permanent fields
 - 1 or more entire permanent fields and 1 area of contiguous land to complete the balance
- more than 15 acres, then the acreage offered must consist of 1 of the following:
 - 1 or more areas of land of at least 15 contiguous acres each with 1 remaining area of land less than 15 contiguous acres to complete the balance
 - 1 or more entire permanent fields
 - 1 or more entire permanent fields and 1 area of contiguous land to complete the balance.

The contiguous acres of land must be a minimum of 3 chains (198 feet) in width. If an **entire permanent field** is offered, it does not have to be a minimum of 3 chains in width. However, the **entire permanent field** must be offered. See example 3 below.

Important: For 2001 Sugar PIK Program, the width shall be determined using the narrowest area of the acreage offered.

Example 1: John Brown offers a total of 14 acres for 2001 Sugar PIK Program. Mr. Brown offers 2 separate (non-contiguous) 7 acre areas of land within a permanent field. The total acres offered is less than 15 acres but is neither 1 entire permanent field nor 1 area of contiguous land. Therefore, the land offered does not meet the minimum size requirements.

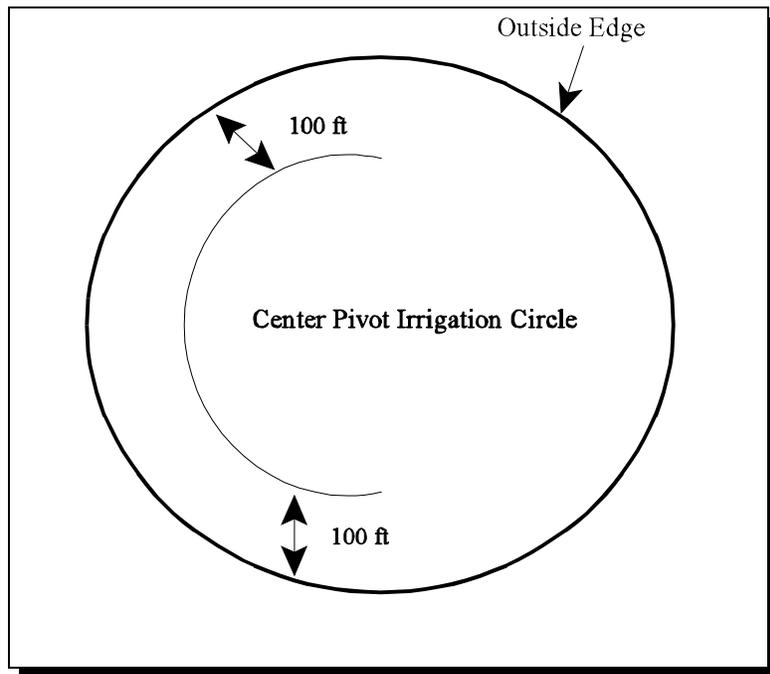
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4 Land and Producer Eligibility Requirements (Continued)

B **Minimum Size** **Requirements** **(Continued)**

Example 2: Mike Green offers a total of 11 acres for 2001 Sugar PIK Program. Mr. Green offers 1 contiguous area of land on the outside edge of a center pivot irrigation circle. The offered acreage extends from the outside edge of the center pivot irrigation circle into the sugar beet field for 100 feet (see diagram below). The total acreage offered is less than 15 acres and is 1 area of contiguous land but is not a minimum of 3 chains in width. Therefore, the land offered does not meet the minimum size requirements.



Example 3: The ABC Partnership offers a total of 45 acres for 2001 Sugar PIK Program. The land offered is 5 separate permanent fields of 3 acres, 22 acres, 12 acres, 6 acres, and 2 acres respectively. The 2 acre permanent field is a narrow field adjacent to a stream and is not 3 chains wide. The total acreage offered is greater than 15 acres and is comprised of entire permanent fields. Therefore, the land offered meets the minimum size requirements.

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4 Land and Producer Eligibility Requirements (Continued)

B Minimum Size Requirements (Continued)

Example 4: Jane White offers a total of 22 acres for 2001 Sugar PIK Program. Mrs. White offers 2 separate (non-contiguous) areas of land each located in a different permanent field. The 2 separate areas of land are 17 contiguous acres and 5 contiguous acres, respectively. Each contiguous area of land is greater than 3 chains in width. The total acres offered is greater than 15 acres. The offered acres is comprised of 1 area of land of at least 15 contiguous acres with 1 remaining area of land less than 15 contiguous acres to complete the balance. Therefore, the land offered meets the minimum size requirements.

C Ineligible Land

The following land is **not** eligible to be diverted under the 2001 Sugar PIK Program:

- land planted to sugar beets or sugarcane that is **not** under contract with a sugar processor for sugar
- land planted to sugar beets or sugarcane that is **not** for harvest in 2001
- land planted to sugar beets or sugarcane that is not harvestable or would not be harvested for sugar in 2001 if not enrolled in 2001 Sugar PIK Program
- land planted to sugar beets or sugarcane that was previously released from a grower contract by the sugar processor
- land for which the producer:
 - has received a crop insurance indemnity payment
 - has applied for a crop insurance indemnity payment
 - will apply for a crop insurance indemnity payment.

Note: A crop insurance replant payment is **not** an indemnity payment. Land for which a crop insurance replant payment has been received is eligible to be offered provided all other eligibility requirements are met.

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4 Land and Producer Eligibility Requirements (Continued)

D Eligible Producers

To participate in the 2001 Sugar PIK Program a producer must meet **all** of the following:

- be a party to a grower contract for the acres offered for which the producer would have received a payment from the sugar processor for the sugar beets or sugarcane if the acres were not accepted in the 2001 Sugar PIK program
- complete and sign CCC-744 before the end of the signup period
- for minors, submit all applicable payment limitation forms to the FSA Service Center, if a "person" determination has not been made

Note: See paragraph 6.

- be entitled to share in the marketing of the sugar beets or sugarcane from the acres offered
- have the authority to divert the acres offered from commercial use
- share in the risk of producing the sugar beets or sugarcane on the acres offered
- if the acreage offered has been reported on FSA-578, all producers who sign CCC-744 indicating they have an interest in the acreage offered must be listed on FSA-578.

Note: Producers who have not reported the acreage offered on FSA-578 are not required to complete FSA-578 to participate in 2001 Sugar PIK Program.

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4 Land and Producer Eligibility Requirements (Continued)

D Eligible Producers (Continued)

FSA Service Center shall not process CCC-744 if the information submitted on CCC-744 differs from other applicable documents on file in the FSA Service Center, such as but not limited to FSA-578, CCC-502, CCC-478, AD-1026, etc.. FSA Service Center may process such CCC-744 provided all of the following are met:

- producer provides sufficient verifiable documentation which indicates that the documents in FSA Service Center are inaccurate

Note: Documentation may include but is not limited to:

- written cash or share lease agreements
 - copies of rent or lease payments
 - copies of deeds
 - official court records.
- COC, based on verifiable documentation provided by the producer, determines the documents in FSA Service Center are inaccurate
 - inaccurate FSA Service Center documents are corrected according to the applicable handbook.

Note: Some producer documents on file in the FSA Service Center may contain information that differs from the information submitted on CCC-744; however, both documents may be accurate.

Example: James Green grows sugar beets on non-contract PFC acres on farm 300. The sugar beets are Mr. Green's only interest in farm 300. Accordingly, Mr. Green is not a signatory to CCC-478 for farm 300.

All information provided by producers or certified as accurate by producers is subject to spot check, review, and audit. Any incorrect information may result in a violation of CCC-744 or other program policy.

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4 Land and Producer Eligibility Requirements (Continued)

D
Eligible
Producers
(Continued)

Producers that do not share in the risk of the production on the acres offered are not eligible to participate in 2001 Sugar PIK Program.

Example 1: Jane Smith and Bill Brown form a limited liability partnership in which Mr. Brown's only contribution is his shares in a sugar cooperative. The limited liability partnership does not share in the risk of producing the sugar beets and does not receive a share of the sugar beets marketed. Mr. Brown receives a set payment regardless of the sugar beet production. Mr. Brown has no risk in the production of the sugar beets and no share in the planted sugar beets. Neither the limited liability partnership nor Mr. Brown are eligible to participate in 2001 Sugar PIK Program. However, Mrs. Smith is eligible to participate provided all other eligibility requirements are met.

Example 2: Mike Jones and Jane Scott form a limited liability partnership in which Mrs. Scott's only contribution is her shares in a cooperative. Mrs. Scott receives 20 percent of the sugar beet production for her contribution with Mr. Jones receiving the remaining 80 percent. Mrs. Scott's payment is not a guaranteed or set amount. The limited liability partnership does share in the risk of producing the sugar beets; therefore, it is eligible to participate in 2001 Sugar PIK Program provided all other eligibility requirements are met.

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5 2001 Sugar PIK Payment Policies

A Payments

The 2001 Sugar PIK Program is a payment-in-kind program. Accordingly, approved producers, or their assignee,:

- will receive title to CCC inventory sugar

Note: Title to CCC inventory sugar will be electronically transferred upon notice from CCC.

- will **not** receive cash payments or redeemable certificates
 - must take delivery of the CCC inventory sugar where it is stored
 - shall be responsible for storage payments, transportation costs, and all other applicable costs for the sugar awarded from the date of transfer.
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B Assignments

Producers may assign their in-kind payments only to the sugar processor with whom the producer has a 2001-crop grower contract for the acreage offered. **All** signatories to CCC-744 must agree to either assign their in-kind payments to the processor or none of the signatories may assign their in-kind payment.

Example: Jane Brown and Bill White submit an offer to participate in 2001 Sugar PIK Program. Mrs. Brown wishes to assign her in-kind payment to the sugar processor. Mr. White does not wish to assign his in-kind payment. **Both** Mr. Brown and Mrs. White must assign their in-kind payment or neither may assign their in-kind payment.

Assignment of the in-kind payment to any individual or entity other than the sugar processor with whom the producer has a grower contract is not authorized.

Producers who wish to assign their in-kind payment to the sugar processor must indicate this assignment on CCC-744 **before** the end of the signup period.

Important: **The amount and timing of payments to producers from processors for assigned CCC inventory sugar is a civil issue. FSA shall not be involved in any manner with the amount or timing of payments from processors.**

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5 2001 Sugar PIK Payment Policies (Continued)

C

Payment Calculation

The total value of the CCC inventory sugar awarded per offer is based on the per acre offered amount, not to exceed the per acre bid cap, multiplied by the number of acres offered.

Note: See subparagraph D for information about the bid cap.

The amount of CCC inventory sugar a producer is awarded:

- will be based on the per acre offered amount, not to exceed the per acre bid cap, multiplied by the number of acres offered, multiplied by the producer's share of the total value of the CCC inventory sugar to be awarded
- shall not exceed a total sugar value of \$20,000.

Note: See paragraph 6 for additional information on the payment limitation.

The producer's share of the total value of the CCC inventory sugar to be awarded may be different than the producer's share in the crop on the acres offered for diversion. However, **all** producers with an interest in the crop on the acres offered must:

- sign CCC-744 before the end of signup
- agree to the division of the total value of CCC inventory sugar.

Note: See paragraph 6 for determining payment shares.

The number of acres that an individual producer may offer shall be the lesser of the following:

- number of acres that would result in an in-kind payment valued at \$20,000
- number of acres equal to the individual producer's percentage share of the crop multiplied by the total number of sugar beet and sugarcane acres on the farm(s) offered.

Note: See paragraph 6 for determining an acreage limit.

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5 2001 Sugar PIK Payment Policies (Continued)

D

Per Acre Bid Cap

The intent of the 2001 Sugar PIK Program is to exchange CCC inventory sugar in return for the diversion from harvest of sugar beets or sugarcane. For each offer, a per acre bid cap is established which is commensurate with a maximum gross value per acre of sugar beets or sugarcane, as applicable, that could reasonably be expected to be produced. The per acre bid cap is calculated using the following formula:

The producer's 3-year average yield multiplied by the producer's 3-year average sugar content multiplied by the processor's 3-year average recovery rate multiplied by the CCC price of sugar multiplied by 20.

Notes: The bid cap is automatically calculated by FSA Service Center Office System/36 based on information provided by the producer according to paragraph 7.

The producer's and processor's 3 year averages shall be based on 1997, 1998, and 1999 crop year data. Processor recovery rates are provided from the applicable sugar processor and hard coded into the program software. See paragraph 7 and Exhibit 1.

The National Office is working with the sugar cane industry on how the needed information will be obtained. Additional information regarding sugar cane data will be provided as soon as it is available.

6 2001 Sugar PIK Share, Payment Limitation, and Acreage Limitation Policies

A

Determining In-Kind Payment Shares

The producer's share of the total value of the CCC inventory sugar to be awarded may be different than the producer's share in the crop. However, **all** producers who share in the crop on the acreage offered must:

- agree to the division of the total value of CCC inventory sugar to be awarded
- sign CCC-744 for their respective share of the total value of CCC inventory sugar, including a zero share, before the end of the sign-up period.

Example 1: Jill White, owner, and Mike Smith, operator, each have an undivided 50 percent interest in 20 acres of sugar beets planted on farm number 46. Mr. Smith also has a 100 percent interest in 40 acres of sugar beets on farm number 290.

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6 2001 Sugar PIK Share, Payment Limitation, and Acreage Limitation Policies (Continued)

A

Determining In-Kind Payment Shares (Continued)

Mr. Smith submitted an offer to enroll 14 acres of sugar beets on farm number 290. The total value of the CCC inventory sugar to be awarded is \$20,000. Mr. Smith's share of the crop and share on CCC-744 is 100 percent. Mr. Smith has reached the \$20,000 payment limitation.

Mrs. White wishes to submit an offer to participate in 2001 Sugar PIK Program on farm number 46. Mrs. White and Mr. Smith both must sign CCC-744 for farm number 46 because they each have a 50 percent undivided interest in the crop. However, Mr. Smith has reached the \$20,000 payment limitation on his offer for farm number 290. Therefore, he is not eligible to receive any CCC inventory sugar for any acreage enrolled on farm number 46.

Mrs. White and Mr. Smith agree to submit an offer for 10 acres of sugar beets on farm number 46 with Mrs. White receiving all the CCC inventory sugar to be awarded. Mrs. White signs CCC-744 for 100 percent share and Mr. Smith signs CCC-744 for zero share.

The total value of CCC inventory sugar to be awarded on Mrs. White's offer on farm number 46 is less than \$20,000. However, 10 acres is the maximum she can offer because of the acreage limitation. See subparagraph C.

If the offer is accepted, the 10 acres of sugar beets on farm number 46 shall not be harvested. **Mr. Smith will not be awarded any CCC inventory sugar for the offer nor will he be able to harvest or make commercial use of the sugar beets.**

Example 2: Jane Jones and Bill Brown are owners of farm number 20. Mary Black is the operator for farm 20. There are 200 acres of sugar beets planted on farm number 20. Mrs. Jones, Mr. Brown, and Mrs. Black have the following undivided share in the planted sugar beets:

- Mrs. Jones, 25 percent
- Mr. Brown, 25 percent
- Mrs. Black, 50 percent.

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6 2001 Sugar PIK Share, Payment Limitation, and Acreage Limitation Policies (Continued)

A Determining In-Kind Payment Shares (Continued)

Mrs. Black has a 100 percent interest in 400 acres of sugar beets on farm number 300. Mr. Brown has a 100 percent interest in 50 acres of sugar beets on farm number 400.

Mrs. Black submitted an offer to enroll 18 acres of sugar beets on farm number 300. The total value of the CCC inventory sugar to be awarded is \$20,000. Mrs. Black's share of the crop and share on CCC-744 is 100 percent. Mrs. Black has reached the \$20,000 payment limitation. Mr. Brown elected not to submit an offer for farm number 400.

Mrs. Jones and Mr. Brown wish to submit an offer to participate in 2001 Sugar PIK Program on farm number 20. Mrs. Jones, Mr. Brown, and Mrs. Black all must sign CCC-744 for farm number 20 because they each have an undivided interest in the crop. However, Mrs. Black has reached the \$20,000 payment limitation on her offer for farm number 300. Therefore, she is not eligible to receive any CCC inventory sugar for any acreage enrolled on farm number 20.

Mrs. Jones, Mr. Brown, and Mrs. Black agree to submit an offer for 30 acres of sugar beets on farm number 20 with Mrs. Jones and Mr. Brown each receiving 50 percent of the CCC inventory sugar to be awarded. Mrs. Jones and Mr. Brown sign CCC-744 for 50 percent share each and Mrs. Black signs CCC-744 for zero share.

The total value of CCC inventory sugar to be awarded for the offer on farm number 20 is \$40,000. If the offer is accepted, the 30 acres of sugar beets on farm number 20 shall not be harvested. **Mrs. Black will not be awarded any CCC inventory sugar for the offer nor will she be able to harvest or make commercial use of the sugar beets.**

Example 3: Bill Blue and Gary Gray have an undivided interest in 100 acres of sugar beets on farm number 1. Mr. Blue has a 60 percent share in the sugar beet crop and Mr. Gray has a 40 percent share in the sugar beet crop.

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6 2001 Sugar PIK Share, Payment Limitation, and Acreage Limitation Policies (Continued)

A

Determining In-Kind Payment Shares (Continued)

Mr. Blue and Mr. Gray wish to submit an offer to participate in 2001 Sugar PIK Program on farm number 1 and each receive \$20,000 of CCC inventory sugar. Mr. Blue and Mr. Gray agree to submit an offer with each receiving 50 percent of the total amount of CCC sugar awarded. Based on the per acre bid cap a total of 27 acres must be offered for Mr. Blue and Mr. Gray to each receive \$20,000 of CCC inventory sugar.

The total value of CCC inventory sugar to be awarded for the offer on farm number 1 is \$40,000. If the offer is accepted, the 27 acres of sugar beets on farm number 1 shall not be harvested.

B

Payment Limitation

A \$20,000 payment limitation applies separately to each individual, each member of a joint operation or joint venture, and each entity. However, minors will be combined with their guardian or parent, as applicable, for determining the \$20,000 payment limitation.

Important: Under no circumstances shall any individual, member of a joint operation or joint venture, entity, or minor in combination with their guardian or parent, as applicable, receive more than \$20,000 worth of CCC inventory sugar.

For 2001 Sugar PIK Program, minors and the individual(s) they are combined with for “person” determinations according to 1-PL are considered 1 producer for payment limitation purposes. Accordingly, for minors:

- CCC-502 must be on file, determinations applicable to 2001 must have been made, and applicable determinations recorded in System 36 before eligibility determinations can be made or CCC-744 may be approved

Note: A producer is not required to file or update CCC-502, if CCC-502 applicable to 2001 is currently on file.

- if needed, CED shall make necessary “person” determinations according to 1-PL; however, State Office shall be consulted for guidance on complex or unusual cases.
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6 2001 Sugar PIK Share, Payment Limitation, and Acreage Limitation Policies (Continued)

B

Payment Limitation (Continued)

Notes: Actively engaged in farming, cash-rent tenant, foreign person, and permitted entity rules in 1-PL are not applicable.

Except for minors, combined “person” rules in 1-PL are not applicable.

C

Acreage Limitation

Producers may share in the total value of the CCC inventory sugar to be awarded differently than how they share in the crop on the acres being offered. However, a producer shall not receive CCC inventory sugar for more acres than the producer’s percentage share of the total acres of the crop on the farm(s) offered. Therefore, the number of acres that an individual producer may offer shall be the lesser of the number of acres:

- that would result in an in-kind payment valued at \$20,000
- equal to the individual producer’s percentage share of the crop times the total number of sugar beet and sugarcane acres on the farm(s) offered.

Example 1: Jill White, owner, and Mike Smith, operator, each have an undivided 50 percent interest in 20 acres of sugar beets planted on farm number 46. Mike Smith also has a 100 percent interest in 40 acres of sugar beets on farm number 290.

Mr. Smith submitted an offer to enroll 14 acres of sugar beets on farm number 290. The total value of the CCC inventory sugar to be awarded is \$20,000. Mr. Smith’s share of the crop and share on CCC-744 is 100 percent. Mr. Smith has reached the \$20,000 payment limitation.

Mrs. White wishes to submit an offer to participate in 2001 Sugar PIK Program on farm number 46 for which she will receive \$20,000 of CCC inventory sugar. Because Mr. Smith has already reached the \$20,000 payment limitation, he and Mrs. White agree to submit an offer for farm number 46 with Mrs. White receiving 100 percent of the CCC inventory sugar to be awarded. Based on the per acre bid cap, Mrs. White would have to enroll 14 acres of sugar beets to be awarded \$20,000 of CCC inventory sugar.

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6 2001 Sugar PIK Share, Payment Limitation, and Acreage Limitation Policies (Continued)

C

Acreage Limitation (Continued)

However, the maximum number of acres Mrs. White may offer at 100 percent interest shall not exceed her percentage share of the crop multiplied by the total acres of the crop on the farm. Therefore, the maximum number of acres Mr. Smith may offer is 10 (20 total acres times 50 percent share = 10).

Example 2: K & M Partnership, operator, and Joe Smith, owner, each have an undivided 50 percent interest in 40 acres of sugar beets planted on farm number 1000. The members of K & M Partnership, Kay West and Mark East, each have a 50 percent share in the partnership.

Mrs. West wishes to submit an offer to participate in 2001 Sugar PIK Program on farm number 1000 and receive \$20,000 of CCC inventory sugar. Mr. East, Mr. Smith, and Mrs. West agree to submit an offer for farm number 1000 with Mrs. West receiving 100 percent of the CCC inventory sugar to be awarded. Based on the per acre bid cap, Mrs. West would have to enroll 18 acres of sugar beets to be awarded \$20,000 of CCC inventory sugar.

However, the maximum number of acres Mrs. West may offer at 100 percent interest shall not exceed her percentage share of the crop times the total acres of the crop on the farm. Therefore, the maximum number of acres Mrs. West may offer is 10 (40 total acres times K & M Partnership's 50 percent share times Mrs. West's 50 percent share in the partnership = 10).

By signing CCC-744, producers certify that their share of the acres offered does not exceed their individual share of the total number of acres of the crop on the farm(s) offered.

Important: As part of the compliance spot check process, the producer's share of the acres accepted will be compared to the producer's share of the total acres of the crop on the farm(s) offered. Producers with a share of the acres offered that exceeds the producer's share of the total acres of the crop on the farm(s) offered shall be in violation of the terms and conditions of CCC-744 and assessed liquidated damages according to paragraph 10.

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7 Submitting Offers

A **Competitive** **Offers**

2001 Sugar PIK Program will be conducted through a competitive offer process where each offer will be compared with all other offers after the end of the signup period. All offers that meet the basic eligibility requirements will be accepted or rejected based on the payment limitation provisions and ranking results.

All eligible offers will be ranked on the basis of the per acre offer amount as a percentage of the per acre bid cap. The lower the percentage the higher the bid will rank.

Example: Offer number 200 has a per acre bid cap of \$1,245. The producer's per acre offer amount is \$1,000. The percentage used for ranking purposes is 80.3213 percent (\$1,000 divided by \$1,245).

Offer number 321 has a per acre bid cap of \$967. The producer's per acre offer amount is \$900. The percentage used for ranking purposes is 93.0714 percent (\$900 divided by \$967).

In this example, offer 200 would be ranked higher than offer 321.

B **Modifying** **Grower** **Contracts**

All eligible producers who plant sugar beets or sugarcane for sugar are under contract with a sugar processor for a certain number of acres or production. To be eligible to participate in 2001 Sugar PIK Program, producers and processors must modify existing grower contracts to reduce the number of acres or production for harvest under contract by the number of acres offered.

Important: The modification of the grower contract is the responsibility of the producer and the sugar processor. USDA will **not** be involved in any manner with the modification of the grower contract.

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7 Submitting Offers (Continued)

C

Producer Information

All information provided by producers or certified as accurate by producers is subject to spot check, review, and audit. Any incorrect information may result in a violation of CCC-744 or other program policy.

To submit an offer and complete CCC-744, producers shall provide **all** of the following:

- producer's name, address, and ID number
- producer's share in the acres offered
- producer's share in the value of CCC sugar

Note: See paragraph 6 for determining shares in the value of CCC sugar.

- producer's 3-year average yield using 1997, 1998, and 1999 crop year production
- producer's 3-year average sugar content using 1997, 1998, and 1999 crop year production

Important: The average yield and sugar content for producers that do not have production history for all 3 crop years (1997, 1998, and 1999) will be determined based on the number of years available since 1997. The average yield and sugar content for producers with no production history for 1997, 1998, and 1999 will be the 3-year average for the factory where the sugar beets or sugarcane will be processed. See Exhibit 1 for instructions to calculate an average yield for producers. State Offices shall contact the National Office if a Service Center requires a 3-year factory average.

- per acre offer amount
- number of acres to offer.

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7 Submitting Offers (Continued)

D

Completing CCC-744

To submit an offer to participate in 2001 Sugar PIK Program, producers must complete and sign CCC-744 before the end of the signup period. CCC-744 is both the irrevocable offer and contract to participate in 2001 Sugar PIK Program. **All producers who share in the acreage offered must sign CCC-744 before the end of the signup period.**

A System/36 automated process has been developed to enter all offer data and complete CCC-744. FSA Service Center shall:

- maintain the original CCC-744
- provide a copy of CCC-744 and CCC-744 Appendix to the producer.

A forthcoming notice will provide CCC-744, CCC-744 Appendix, and instructions for completing automated CCC-744.

See subparagraph E for modifying or withdrawing offers **before** the end of signup. **CCC-744 is irrevocable after the signup period ends.**

Producers that do not comply with the terms of CCC-744 will be assessed liquidated damages according to paragraph 10.

E

Withdrawing or Modifying Offers

After the end of the signup period:

- **offers submitted for 2001 Sugar PIK Program are irrevocable**
- **withdrawing or modifying offers is not authorized.**

Producers who submit an offer and then elect to not participate in the program after the end of the signup period shall be assessed liquidated damages according to paragraph 10.

Producers may modify their offers at any time **before** the end of the signup period. If a producer modifies an offer after CCC-744 has been printed and signed, FSA Service Center shall:

- enter the modified data in System/36 using the same contract number as the original CCC-744
 - print new CCC-744 with modified data
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7 Submitting Offers (Continued)

E

Withdrawing or Modifying Offers (Continued)

- write “MODIFIED” and the date modified on the original CCC-744 and attach the modified CCC-744 to the original CCC-744

Important: FSA employee shall initial CCC-744 next to the word “MODIFIED”.

- have all producers sign modified CCC-744.

Producers may withdraw offers **before** the end of the signup period without assessment of liquidated damages. If the producer withdraws an offer **before** the end of the signup period, FSA Service Center shall:

- **immediately** delete the offer from System/36

Important: If the offer data is not deleted from the System/36 before the end of the signup period, the offer data will be transmitted to KC-ITSDO and processed. FSA Service Centers will be locked out of the System/36 2001 Sugar PIK Program options at COB on September 24.

- write “WITHDRAWN” and the date withdrawn on CCC-744

Important: FSA employee deleting offer from System/36 shall initial CCC-744 next to the word “WITHDRAWN”.

- have producer initial CCC-744 next to the word “WITHDRAWN”.
-

F

Transmitting Offer Data

2001 Sugar PIK Program offer data will be automatically transmitted to KC-ITSDO during the end-of-day process September 24.

On September 24, FSA Service Centers shall:

- **be locked out of the 2001 Sugar PIK software with the end-of-day process**
 - **complete end-of-day process on September 24.**
-

Notice SU-70

8 Offer Evaluation and Notification

A Evaluating Offers

After signup, PECD and KC-ITSDO will:

- review all transmitted offer data
 - contact sugar processors and Service Centers, as applicable, concerning questionable and erroneous data
 - correct erroneous data, as applicable
 - ensure that producers have modified their grower contracts for the acres offered contingent on the offer being accepted
 - ensure that the \$20,000 payment limitation is not exceeded
 - rank all eligible offers. See paragraph 7.
-

B Notifying Producers and Service Centers

After the offers are reviewed and ranked:

- USDA will issue a press release announcing the bids that are accepted based on the ranking and CCC sugar available for the program
 - DAFP will issue a notice to provide procedure for:
 - approving CCC-744

Note: CCC-744's shall not be approved by Service Center unless notification is received from DAFP.
 - conducting program compliance
 - KC-ITSDO will notify producers:
 - of accepted and rejected offers
 - to contact Service Center to designate acreage that will not be harvested.
-

Notice SU-70

9 Use of Accepted Acreage

A **Diverting From Harvest**

By signing CCC-744, producers agree to not harvest or make commercial use of the sugar beets or sugarcane, as applicable, on the acres accepted.

Producers are not required to destroy the sugar beets or sugarcane to comply with CCC-744. The sugar beets or sugarcane may be left on the accepted acreage. However, at no time may the producer make commercial use of the sugar beets or sugarcane.

Producers may remove the sugar beets or sugarcane on the accepted acreage and pile them provided both of the following are met:

- no commercial use is made of the sugar beets or sugarcane
- a paid-for field visit is conducted by the FSA Service Center to ensure the sugar beets and sugarcane are not harvested and there is no commercial use.

Commercial use includes but is not limited to:

- deer bait
- use as sugar in any form, including raw cane
- livestock feed in any manner
- livestock grazing.

Exception: Producers may graze the accepted acreage with their own livestock provided the sugar beets are mechanically destroyed before the livestock are released on the acreage. Under no circumstances is grazing of livestock other than those owned by the producer authorized.

Example: Joe Smith's offer to divert 14 acres of sugar beets was accepted. The 14 acres are located within a 200 acre field of sugar beets. Mr. Smith normally grazes his own livestock on the sugar beet field after the beets are harvested. Mr. Smith wants to graze his own livestock on the entire 200 acres, including the 14 acres accepted in 2001 Sugar PIK Program. Mr. Smith mechanically destroys the sugar beets on the 14 accepted acres by disking.

Mr. Smith may graze his own livestock on the accepted acreage without violating CCC-744 because the sugar beets were mechanically destroyed before the livestock was released on the acres.

Grazing of the accepted acreage by livestock not owned by Mr. Smith is a violation of CCC-744 regardless of whether the acreage was mechanically destroyed.

Notice SU-70

10 Producer Violations

A Liquidated Damages

Producers found in violation of the terms and conditions of CCC-744 or other program policies shall be assessed liquidated damages in an amount equal to 3 times the value of the CCC inventory sugar approved under CCC-744 for the acres in violation.

The liquidated damages are in addition to a refund of the value of the CCC inventory sugar approved under CCC-744 for the acres in violation and may be in addition to any other damages or amounts due that result from the violation.

Violations include but are not limited to:

- diverting fewer acres than accepted
- diverted acreage that does not meet acreage size requirements
- harvesting the sugar beets or sugarcane on the accepted acreage
- making unauthorized commercial use of the sugar beets or sugarcane from the accepted acreage including, but not limited to:
 - deer bait
 - livestock feed
 - unauthorized grazing
 - use as sugar in any form, including raw cane.

Neither COC or STC is authorized to waive or reduce the amount of refund or liquidated damages without prior approval from DAFP.

Notice SU-70

11 Acreage Certification and Measurement

A Acreage Certification

At the time of signup, producers:

- must identify the farm number(s) where the acreage to be diverted is located

Note: The farm number(s) are required to allow County Office to determine producer acreage limitations.

- may elect to delineate the exact location of the acres offered at the time the offer is submitted.

Note: Producers are not required to delineate the exact location of the acres offered until their offer is determined accepted.

If the producer elects to identify the exact location of the acreage offered at the time the offer is submitted, the producer shall provide all of the following:

- a field map delineating the exact location of diverted acreage
- farm number or numbers (CCC-744, item 16)
- tract number or numbers (CCC-744, item 17)
- field number or numbers (CCC-744, item 18).

Diverted acreage:

- shall be clearly marked on the map
- may include measurements or other verifying data.

The map shall be attached to CCC-744.

Important: The number of acres certified on FSA-578 **shall not** be changed because of acreage being diverted under 2001 Sugar PIK Program.

Example: Mary Smith certified on FSA-578 planting 100 acres of sugar beets. She submitted an offer to enroll 14 acres in 2001 Sugar PIK Program. Regardless of whether her offer is accepted, County Office shall not modify the number of acres reported because the acres were offered for enrollment.

Service Center shall **not** approve CCC-744 until notified. See paragraph 8.

Continued on the next page

Notice SU-70

11 Acreage Certification and Measurement (Continued)

B

Acreage Measurement Service

When requested by the producer, FSA Service Centers shall perform a paid-for measurement service for the acres offered in 2001 Sugar PIK Program. Paid-for measurement service by FSA is not required; however, measurement service conducted by any source other than FSA is not guaranteed by FSA.

12 Responsibilities and Actions

A

Producer Responsibilities

Producers are responsible for all of the following:

- modifying existing grower contract with the sugar processor
- determining payment shares according to paragraph 6
- providing offer information according to paragraph 7
- signing CCC-744
- complying with the terms and conditions of the program as set forth in the Federal Register, CCC-744, CCC-744 Appendix, and the applicable program notices
- for minors, submitting all applicable payment limitation forms to the FSA Service Center, if a "person" determination has not been made
- contacting their crop insurance agent regarding the acres offered.

Note: Failure of the producer to obtain an appraisal may adversely affect APH-approved yields for future crops years and crop insurance indemnity payments on other 2001 year crop acres.

Continued on the next page

Notice SU-70

12 Responsibilities and Actions (Continued)

B
FSA Service
Center Action

FSA Service Centers shall:

- to the extent practical, notify producers of the availability of 2001 Sugar PIK Program signup period according to paragraph 3

Note: The National Office has requested that the sugar processors notify their producers, to the extent practical, of the availability of the 2001 Sugar PIK Program.

- determine land and producer eligibility according to paragraph 4
- assist producers with payment share determinations according to paragraph 6
- during the signup period, process offer information from producers and complete CCC-744 according to paragraph 7 and a forthcoming notice
- provide producers with a copy of completed CCC-744 and CCC-744 Appendix
- when applicable, before the end of the signup period, modify or withdraw offers according to paragraph 7
- not approve any CCC-744 until notified by DAFP according to paragraph 8
- when requested by the producer, perform a paid-for measurement service for the acres offered according to paragraph 11
- complete the end-of-day process on September 24.

Important: 2001 Sugar PIK Program offer data shall be automatically transmitted to KC-ITSDO during the end-of-day process on September 24. All offers must be entered and correct before COB September 24.

Continued on the next page

Notice SU-70

12 Responsibilities and Actions (Continued)

B

FSA Service Center Action (Continued)

FSA Service Center should remind producers to contact their insurance agent if they plan to enroll acreage in the PIK program.

Note: Failure of the producer to obtain an appraisal may adversely affect APH-approved yields for future crop years and crop insurance indemnity payments on other 2001-year crop acres.

C

FSA State Office Action

State Office shall:

- immediately provide a copy of this notice to Service Centers
 - ensure that Service Centers follow procedure provided in this notice.
-

13 Definitions and Contacts

A

Definitions

The following definitions are applicable to 2001 Sugar PIK Program only.

CCC-744 is the irrevocable offer and contract between the producer and CCC for 2001 Sugar PIK Program.

A grower contract is the contract between the sugar processor and the producer.

A sugar processor or processor is the entity with which the producer has a grower contract.

Continued on the next page

Notice SU-70

13 Definitions and Contacts (Continued)

B

Contacts

State Offices with questions about this notice or the 2001 Sugar PIK Program shall:

- contact Virgil Ireland at 202-720-5103 or David Tidwell at 202-720-4542
- **not** contact the Kansas City Help Desk unless directed by National Office.

Service Centers with questions about this notice or the 2001 Sugar PIK Program shall:

- contact their State Office
 - **not** contact:
 - the National Office
 - KC-ITSDO
 - Kansas City Help Desk.
-

Calculating Producer Average Yields

The following are examples of calculations for a producer's 3-year average yield for the 2001 Sugar PIK Program.

Producer	1997 Yield/Acre	1998 Yield/Acre	1999 Yield/Acre	Calculation to Determine Average Yield
1	25.0 tons	22.0 tons	28.0 tons	$((25.0 + 22.0 + 28.0) \text{ divided by } 3) = 25.0$ Average yield for 2001 Sugar PIK = 25.0
2	No Production	18.0 tons	19.0 tons	$((18.0 + 19.0) \text{ divided by } 2) = 18.5$ Average yield for 2001 Sugar PIK = 18.5
3	No Production	No Production	20.0 tons	Average yield for 2001 Sugar PIK = 20.0
4	No Production	No Production	No Production	Producer will be assigned an average yield equal to the 3-year average yield for the factory.
