

For: State Offices and Service Centers

2001 Sugar Payment-In-Kind (PIK) Program Compliance

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A

Background

Notice SU-75 provided State Offices and Service Centers with:

- information about reports of accepted 2001 Sugar PIK Program offers transmitted to State Offices
- instructions for:
 - reviewing the reports
 - handling offers when the report data did not match the offer data
 - approving CCC-744's.

Producers with accepted offers were required to report to FSA the exact location of the acreage to be diverted under the 2001 Sugar PIK Program. Notice SU-70 provided that producers submit a field map or photocopy to the applicable Service Center which indicates:

- delineation of the exact location of the diverted acreage
- farm number(s) (CCC-744, item 16)
- tract number(s) (CCC-744, item 17)
- field number(s) (CCC-744, item 18).

Important: Diverted acreage shall be clearly marked on the photocopy or map.

Note: Measurements or other verifying data may be written on the photocopy or map to help identify the exact location of the diverted acreage.

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<p>Disposal Date</p> <p>June 1, 2002</p>	<p>Distribution</p> <p>State Offices; State Offices relay to Service Centers</p>
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1 Overview (Continued)

A

Background (Continued)

The photocopy or map shall be attached to CCC-744.

Notice SU-70, subparagraph 4 B and CCC-744 Appendix provide the size requirements for acreage enrolled in the 2001 Sugar PIK Program.

B

Purpose

This notice provides Service Centers with policies and procedure for conducting compliance and spot-check activities for the 2001 Sugar PIK Program.

2 Compliance Spot Checks and Reviews

A

Random Selection

Service Centers shall conduct a:

- field visit spot-check according to subparagraph B
- review of CCC-744's according to subparagraph C
- review of producer's grower contract according to subparagraphs D and E.

The number of accepted offers selected shall be the greater of the following:

- 15 accepted CCC-744's
- 15 percent of the accepted CCC-744's for the applicable county.

Note: For each CCC-744 selected, a field visit spot check, CCC-744 review, and grower contract review shall be completed.

Service Centers shall spot-check acreage, review CCC-744's, and review grower contracts, based on a random sample of offers selected, according to the table below.

Step	Action
1	Select a number between 1 and 7.
2	Spot-check the Sugar PIK offer for the number selected in step 1 and every subsequent 7 th Sugar PIK offer on the accepted offer reports.

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2 Compliance Spot Checks and Reviews (Continued)

**A
Random
Selection
(Continued)**

Example: The following provides an example of selecting Sugar PIK offers for spot-check.

Step	Result
1	Number 3 is selected.
2	Jackson County received 100 FSA accepted Sugar PIK offers. The 100 accepted offers are listed on the accepted offer reports in ascending order. Jackson County will spot-check the 3 rd Sugar PIK offer listed and every 7 th subsequent offer on the list. In this example the 3 rd , 10 th , 17 th , 24 th , 31 st , ... offers listed would be spot-checked.

All accepted Sugar PIK offers from FSA employees are required spot checks. FSA employee required spot checks are in addition to the 15 percent random spot checks.

**B
Field Visit Spot
Checks**

Service Centers shall conduct a field visit to ensure that the acreage identified by the producer on CCC-744, items 16 through 18, and the map or photocopy attached to CCC-744 meets both of the following:

- producer has not harvested or made commercial use of the sugar beets or sugar cane on the accepted acreage
 - the accepted acreage meets the size requirements provided in:
 - Notice SU-70, subparagraph 4 B
 - CCC-744 Appendix, paragraph 4.
-

**C
CCC-744 Review**

Service Centers shall conduct a review of CCC-744's to ensure that all of the following are met:

- all signatures were obtained before the end of the signup period, according to Notice SU-70, paragraph 7
 - CCC-744, items 16 through 18 are completed
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2 Compliance Spot-Checks and Reviews (Continued)

C

CCC-744 Review (Continued)

- the total number of acres offered (CCC-744, item 11) times the individual producer's share on CCC-744 is less than or equal to the total number of sugar beet and sugarcane acres on the farm (CCC-744, item 16) times the individual producer's percentage share of the sugar beets and sugarcane on the farm.

Example: Jill White, owner, and Mike Smith, operator, each have an undivided 50 percent interest in 20 acres of sugar beets planted on FSN 46. Mrs. White and Mr. Smith submitted an offer to divert 14 acres of sugar beets with Mrs. White receiving 100 percent of the CCC-owned sugar to be awarded.

Mrs. White is in violation of CCC-744 because her share of the total acres offered (14 acres offered times 100 percent) is greater than her share in the total number of sugar beet acres on the farm (20 total acres times 50 percent).

Notes: See Notice SU-70, paragraph 6, for more information about the acreage limitation.

By signing CCC-744, producers certified 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.

Reviewer shall initial and date CCC-744 in top right-hand-corner of page 1.

D

Sugar Beet Grower Contract Review

All sugar beets grown for the purpose of manufacturing refined sugar are under a written contract with a sugar processor. Accordingly, each signatory to CCC-744 must be a party to a written grower contract for the acres accepted.

For sugar beet producers selected for spot check, Service Centers shall:

- request a copy of the producer's written grower contract for each signatory on CCC-744
- ensure that each signatory on CCC-744 is a party to the written grower contract
- verify that the producer entered into the grower contract with the sugar processor before the end of the normal planting period for the county.

Important: Neither "Annual Planting Agreements" alone or "Split Check Agreements" are grower contracts. See subparagraph F.

See subparagraph F for Service Center action when CCC-744 signatory is not a party to a grower contract.

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2 Compliance Spot-Checks and Reviews (Continued)

E

Sugarcane Grower Contract Review

Some sugarcane producers may not have written grower contracts with a sugarcane processor. However, the producer may have a verbal contract with a sugarcane processor for a certain number of acres of sugarcane for the purpose of manufacturing sugar.

For sugarcane producers selected for spot check, Service Centers shall:

- request a copy of the producer's written grower contract for each signatory on CCC-744
- ensure that each signatory on CCC-744 is a party to the written grower contract
- verify that the producer entered into the grower contract with the sugar processor before the end of the normal planting period for the county.

When a sugarcane producer indicates that a written grower contract was not effectuated, COC must be satisfied the producer has a nonwritten grower contract with the applicable sugar processor which is for the harvest of 2001 sugarcane for:

- purpose of manufacturing sugar
- at least the number of acres offered.

Verification for COC may include, but is not limited to, obtaining a written certification statement from the producer.

Note: State Office may develop a uniform process for the State to assist COC's in verifying sugarcane producers who indicate they are a party to a nonwritten grower contract with the applicable sugar processor.

See subparagraph F for Service Center action when a CCC-744 signatory is not a party to a grower contract.

Important: Neither "Annual Planting Agreements" or "Split Check Agreements" are grower contracts. See subparagraph F.

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2 Compliance Spot-Checks and Reviews (Continued)

F

Action for CCC-744 Signatories With No Grower Contract Each signatory to CCC-744 must be a party to a grower contract with the applicable sugar processor for the acres offered. Service Centers shall take action according to the following table when a signatory to CCC-744 is not a party to a grower contract.

IF...	THEN Service Center shall...
the signatory has 100 percent interest on CCC-744	assess refunds and liquidated damages according to paragraph 4.
the signatory does not have 100 percent interest on CCC-744	<ul style="list-style-type: none"> • immediately FAX both the following to the National Office at 202-690-3610 to the attention of Virgil Ireland • copy of all applicable CCC-744's • brief narrative identifying signatory(s) not party to a grower contract • not notify any of the CCC-744 signatories of the program violation until authorized by DAFP.

Some producers may be party only to agreements, such as an assignment or “Split Check Agreement”, with a sugar processor which only entitles a signatory to receive a payment from the sugar processor. Such agreements are **not** grower contracts and do not meet the producer’s grower contract requirement to participate in the 2001 Sugar PIK Program.

Example: John Brown and James Smith are signatories to an accepted 2001 Sugar PIK Program offer. The offer was selected for spot check. Mr. Brown submitted a “Split Check Agreement” which indicates he will receive 20 percent of the net payment to the grower. Mr. Brown is **not** a party to the grower contract between Mr. Smith and the sugar processor. The “Split Check Agreement” is not a grower contract.

Further, documents such as “Annual Planting Agreements” which may indicate the producer has an interest in the acreage offered is not, by itself, a grower contract and does not make the producer eligible to participate in the 2001 Sugar PIK Program.

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3 Submission of Producer Documentation and COC Determination

A

Producer Documentation and COC Determination

Notice SU-70, subparagraph 4 D instructed Service Centers to **not** process CCC-744's if the information submitted on CCC-744 differed from other applicable documents on file in the Service Center, unless all of the following were met:

- producer provides sufficient verifiable documentation which indicates that the documents in the Service Center are inaccurate
- COC, based on verifiable documentation provided by the producer, determines the documents in the Service Center are inaccurate
- inaccurate Service Center documents are corrected according to the applicable handbook.

Service Centers shall submit to the State Office all of the following for each CCC-744 processed, when the information submitted on CCC-744 differed from other applicable documents on file in the Service Center:

- documentation submitted by each producer which indicates the documents on file are incorrect
- COC determination the documents on file are incorrect
- list of all actions taken by the Service Center to correct the inaccurate documents on file.

Important: Information for **all** CCC-744's processed when the information submitted on CCC-744 differed from other applicable documents on file in the Service Center shall be submitted. **The submission of this information is not limited to those offers selected for random spot-check.**

State Offices shall, by **no later than December 14, 2001**, submit all information to the National Office. **Negative reports are required.**

Notice SU-76

4 Violations

A Assessment of Refunds and 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.

Neither COC or STC is authorized to waive or reduce the amount of refund or liquidated damages. If **highly meritorious** conditions exist, STC may request a review for relief from DAFP.

Service Centers shall assess refunds and liquidated damages only on the acres found in violation.

Example: Mrs. Smith's offer to divert 20 acres of sugar beets under the 2001 Sugar PIK Program was accepted. Upon spot-check, the Service Center discovers that 3 acres of the diverted sugar beets do not meet the minimum size requirements. All other requirements were met. The Service Center shall assess a refund of the value of the CCC sugar, plus interest, on the 3 acres in violation, plus liquidated damages on the 3 acres in violation.

Service Centers shall use the following codes when recording liquidated damages:

- LIDABSUG for sugar beet acreage
- LIDACSUG for sugarcane acreage.

Because eligible producers receive title to CCC-owned sugar, recording the refund of the value of the sugar must be handled differently than recording a refund from other programs such as PFC or CRP.

Service Centers shall contact the State Office before recording a refund of the value of CCC-owned sugar or offsetting other program payments to satisfy the assessment of a refund for a 2001 Sugar PIK Program violation.

State Offices shall contact PECD, Emergency Preparedness and Program Branch at 202-720-6602 for assistance in recording a refund or offsetting other program payments for 2001 Sugar PIK Program violations.

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4 Violations (Continued)

A

Assessment of Refunds and Liquidated Damages (Continued)

Violations include, but are not limited to:

- producer not being a party to a grower contract for the acreage accepted
 - **Important:** See subparagraph 2 F for violations because of no grower contract.
 - grower contract entered into after the normal planting period for the county
 - diverting fewer acres than accepted
 - diverted acreage that does not meet acreage size requirements
 - harvesting the sugar beets or sugarcane on the acreage accepted
 - making unauthorized commercial use of the accepted acreage including, but not limited to:
 - deer bait or feed
 - livestock feed
 - unauthorized grazing
 - use as sugar in any form, including raw sugar.
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5 Action

A

State Office Action

State Offices shall:

- ensure that applicable Service Centers complete field visit spot checks, CCC-744 reviews, and grower contract reviews by **January 11, 2002**
 - submit producer documentation, COC determination, and Service Center action to the National Office according to paragraph 3, by **December 14, 2001.**
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5 Action

B Service Center Action

Service Centers shall:

- conduct a field visit spot check, CCC-744 review, and grower contract review according to paragraph 2, by no later than **January 11, 2002**
 - submit producer documentation, COC determination, and Service Center action to State Office according to paragraph 3
 - request refunds and assess liquidated damages according to paragraph 4 when program violations are discovered.
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