

For: State and County Offices

**Interest Rate Charged for CCC Sugar Loans and Repayments**

Approved by: Deputy Administrator, Farm Programs



**1 Overview**

**A Background**

On September 15, 2004, the United States District Court for the District of Columbia, held in *Holly Sugar Corp. et al. v. Veneman, et al.*, (D.D.C. Sept. 15, 2004), that the assessment of the additional 1 percent charge on interest is not consistent with statutory provisions applicable to sugar loans.

To comply with the holding of the United States District Court for the District of Columbia, from September 15, 2004, CCC has disbursed and calculated repayments on sugar loans at the CCC borrowing rate not to include the additional 1 percent charge. Processors were notified, by addendum to the loans and repayments, that in the event USDA appealed this ruling and subsequently prevailed, the additional 1 percent interest would be due CCC on all repayments made from September 15, 2004.

On February 6, 2006, the United States Court of Appeals for the District of Columbia Circuit announced a decision reversing the United States District Court for the District of Columbia judgment in *Holly Sugar Corporation v. Johanns*. The United States Court of Appeals for the District of Columbia Circuit held that nothing in the 2002 statute sets an interest rate on sugar loans and instead merely restores CCC's rate-setting authority. The reversal of the United States District Court for the District of Columbia decision allows CCC to charge 1 percentage point interest above its borrowing rate on sugar loans, the same as is done on all marketing assistance loans (MAL's).

<b>Disposal Date</b>	<b>Distribution</b>
October 1, 2006	State Offices; State Offices relay to County Offices

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### 1 Overview (Continued)

#### B Purpose

This notice informs State and County Offices with sugar loans that:

- after the installation of County Release No. 589:
  - 2005 sugar loan repayments will include the additional 1 percent interest
  - sugar loans disbursed will reflect the additional 1 percent interest
- the National Office will be informing sugar processors of the amounts owed for:
  - 2003 crop year loans on repayments made on or after September 15, 2004
  - all 2004 crop loan repayments
  - 2005 crop year loan repayments made before May 26, 2006, or the installation of County Release No. 589
- remittances will be sent by the sugar processor directly to FMD's Debt Management Division in Kansas City where they will be deposited
- County Offices will **not** be:
  - notifying sugar processors of amounts owed
  - collecting and depositing amounts owed by sugar processors.

#### C Contact

State Specialist with questions about this notice may contact DeAnn Allen by either of the following:

- telephone at 202-720-9889
- e-mail at **deann.allen@wdc.usda.gov**.

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### 2 Additional Interest Due on Certain 2003, 2004, and 2005 Sugar Loans

#### A Interest Rate Change

From September 15, 2004, to comply with the United States District Court for the District of Columbia, CCC:

- calculated all sugar loan repayments at the CCC borrowing rate not to include the additional 1 percent interest charge
- disbursed all sugar loans at the CCC borrowing rate not to include the additional 1 percent interest charge
- had processors sign addendums to the loan agreements and repayments, stating that in the event USDA appealed the ruling and prevailed, the additional 1 percent interest would be due CCC.

Because the February 6, 2006, ruling was in favor of USDA, the additional 1 percent interest on all sugar loans repaid since September 15, 2004, is now due CCC.

#### B Sugar Loan Disbursal and Repayment Software Modifications in APSS

Sugar loanmaking and repayment software has been modified to include the additional 1 percent interest rate assessment in County Release No. 589.

County Offices with 2005 sugar loans shall:

- insure that all sugar loan repayments received by May 25, 2006, are recorded in APSS before May 26, 2006
- install County Release No. 589 on **May 26, 2006**.

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### 2 Additional Interest Due on Certain 2003, 2004, and 2005 Sugar Loans (Continued)

#### C Process for Notifying and Collecting the Additional Interest

Because of the large number of sugar loan repayments from September 15, 2004, through May 25, 2006, the following will occur:

- the additional 1 percent interest will not be processed through APSS in the County Offices
- a query off the mainframe computer in Kansas City will determine the additional 1 percent interest owed by loan and loan repayment date for each sugar processor
- the National Office will send demand letters and supporting documentation, on or about June 15, 2006, to the sugar processors informing them of the amount due CCC
- amounts owed will be sent to FMD in Kansas City by the sugar processors
- FMD will handle the deposit of these remittances.

### 3 Action

#### A County Office Action

County Offices with 2005 crop year sugar loans shall:

- before installing County Release No. 589 and by no later than May 25, 2006, record in APSS, all sugar loan repayments received by that date
- install County Release No. 589 on **May 26, 2006**, only after all 2005 repayments have been recorded
- immediately notify the State Office that:
  - all 2005 sugar loan repayments received by May 25, 2006, have been recorded in APSS
  - County Release No. 589 has been installed on May 26, 2006.

If a County Office with outstanding 2005 sugar loans, does **not** receive County Release No. 589, and is unable to install County Release No. 589 on May 26, 2006, they shall immediately notify their State Office.

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### 3 Action (Continued)

#### C County Office Action (Continued)

After installation of County Release No. 589, sugar processors will no longer be required to sign 10-SU, Exhibits:

- 5, Addendum to Sugar Loan Disbursements, for new sugar loans
- 15, Addendum to Sugar Loan Repayments, for sugar loan repayments.

#### B State Office Action

State Offices in States with sugar loans shall notify DeAnn Allen, PSD, by e-mail at the address in subparagraph 1 C:

- when all their County Offices with 2005 sugar loan have installed County Release No. 589
- if notified that a County Office with 2005 sugar loans does not receive County Release No. 589, and is unable to install County Release No. 589 on May 26, 2006.