

For: Tobacco State and County Offices

**Producer Provisions for the Tobacco Transition Payment Program (TTPP)**

Approved by: Deputy Administrator, Farm Programs



**1 Overview**

**A Background**

The Fair and Equitable Tobacco Reform Act of 2004 (the Act) Pub. L. 108-357, signed by the President on October 22, 2004, terminated the Federal Tobacco Marketing Quota and Price Support Loan Programs effective with the 2005 and subsequent crops of tobacco for the following kinds:

- Flue-Cured (Types 11-14)
- Burley (Type 31)
- Virginia Fire-Cured (Type 21)
- Fire-Cured (Types 22 & 23)
- Dark Air-Cured (Type 35 & 36)
- Virginia Sun-Cured (Type 37)
- Cigar Filler/Binder (Types 42-44, 54 & 55).

The Act provided authority for TTPP. Payments to eligible producers will provide compensation at the rate of \$3 per pound based on the 2002 effective quota. The payments will be made in 10 annual installments beginning in FY 2005 and ending in FY 2014.

See Notice TB-1124 for quota holder provisions.

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| <p><b>Disposal Date</b></p> <p>February 1, 2006</p> | <p><b>Distribution</b></p> <p>Tobacco State Offices; State Offices relay to applicable County Offices</p> |
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## Notice TB-1123

### 1 Overview (Continued)

#### B Purpose

This notice informs State and County Offices of the following:

- TTPP provisions and signup period
- TTPP provisions for eligible producers
- one TTPP Notification, see Exhibit 1, will be mailed to all producers of record beginning March 9, 2005.

#### C TTPP Signup Period

Signup for TTPP begins March 14, 2005, and ends June 17, 2005. Eligible producers must apply at the local FSA County Office by completing CCC-956. A contract must be executed for each farm for each kind of tobacco quota that a producer shared in the risk of producing in crop year 2002, 2003, or 2004. Contracts signed after June 17, 2005, and approved as late-filed, will receive future payments but will not receive past payments.

**Note: Contracts not signed by June 17, 2005, will not receive the FY 2005 payment.**

#### D Automation Software

Automation software to generate TTPP contracts, reports, and inquiries will be a web-based application. Instructions will be provided in a future notice.

### 2 Eligible Producers

#### A Eligible Tobacco Producer

An eligible tobacco producer is an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing tobacco on a farm with an established farm marketing quota or farm acreage allotment for quota tobacco in crop year 2002, 2003 or 2004.

## Notice TB-1123

### 2 Eligible Producers (Continued)

#### B Disputed Shares

Producer share information on the contract is obtained from FSA-578 reported shares. Producers may change share percentages, however, all producers on the farm for the applicable year must agree with the division of quota shares.

#### C Quota Producers Who Are Deceased

If an eligible producer died after October 22, 2004, before entering into a contract for TTPP, quota pounds eligible for payment will be paid to either of the following:

- the spouse
- the estate if there is no spouse.

#### D Eligible Producers Who Are Dissolved Entities

In the case of an entity dissolved after October 22, 2004, before entering into a contract, the members will be considered the eligible producers for TTPP. The quota pounds eligible for TTPP will be divided among the members based on each member's share of the entity. All members of the dissolved entity at the time of dissolution, or their representatives, must sign all CCC-956's.

#### E Eligibility Is Attached to the Producer

After an individual, entity, or joint operation has been determined as the eligible producer and enters into and has an approved CCC-956, eligibility attaches to the producer and remains, regardless of whether the individual, entity, or joint operation no longer has an interest in the production of tobacco on any farm.

#### F Eligibility Flags

Producers must comply with HELC/WC and control substance regulations. All successors to the contract must also comply with these regulations.

### 3 Eligible Quota Pounds for Producers

#### A Calculating Base Quota Level (BQL)

Instructions for calculating a producer's BQL will be provided in a future notice.

## Notice TB-1123

### 4 TTPP Payment Provisions

#### A General Payment Provisions

Eligible producers are eligible to receive \$3 per pound based on the 2002 effective quota produced on the farm for which they share in the risk of production in crop year 2002, 2003, or 2004. The payments will be made in 10 annual installments beginning in FY 2005 and ending in FY 2014.

#### B TTPP Payment Formula

The TTPP annual installment payment will be calculated by multiplying the eligible producer's BQL on each farm for crop year 2002, 2003, and 2004 times \$0.10 per pound.

#### C Timing of Payments

The FY 2005 payment will be issued between June and September 2005. Subsequent FY payments will be issued during the month of January.

#### D Bankruptcy

Bankruptcy status does not exclude a producer from requesting TTPP payments.

**Note:** Contact the OGC Regional Attorney for guidance on issuing TTPP payments on all bankruptcy cases.

#### E Administrative Offset

TTPP payments are subject to administrative offset.

#### F Assignments

County Offices shall process assignments according to 63-FI. CCC-959 **shall** be used.

#### G Successor-in-Interest

CCC-958 must be signed by November 1 before the January payment to be issued in the next calendar year. There will be no successor-in-interest payments for FY 2005 payments. All payments made in FY 2005 will be made to the producer.

**Example:** If CCC-958 is signed on or before November 1, 2005, the FY 2006 payment will be made to the successor of the contract.

#### H Power of Attorney

FSA-211, dated 07-25-02 or later, may be used if Item 2, "All Current and all Future Programs", is specified.

## Notice TB-1123

### **5 Action**

#### **A State Office Action**

State Offices shall:

- publicize TTPP signup and provisions by all means available
- ensure that County Offices follow the provisions in this notice.

#### **B County Office Action**

County Offices shall:

- publicize signup period for TTPP, March 14, 2005, through June 17, 2005, by all means available
- follow the provisions in this notice
- establish yellow/goldenrod color-coded files using code TTPP for all TTPP farms.

### **6 Forms**

#### **A Forms Availability**

CCC-956, CCC-958, and CCC-959 will be forthcoming.

## TTPP Notification



United States Department of Agriculture  
Tobacco Transition Payment Program

**To Tobacco Quota Holders and/or Producers:**

You may be eligible for payments from the USDA's Tobacco Transition Payment Program (TTPP), also called the "Tobacco Buyout." This letter contains information about the program. This letter also contains information about the records the Farm Service Agency (FSA) holds about your quota and production, upon which your payments would be based. Please read it carefully.

**What's this about?**

On October 22, 2004, the Fair and Equitable Tobacco Reform Act of 2004 ended federal tobacco marketing quota and price support loan programs at the end of the 2004 marketing year for all quota tobacco, effective June 30, 2005 for flue-cured and September 30, 2005 for all other tobacco crops.

**What happens now?**

The marketing quota system is over. This law allows transition payments to quota holders and producers of eligible kinds of tobaccos. The transition payments are funded by assessments on tobacco manufacturers and importers. Therefore, signing up and "contracting" with the USDA's TTPP is a great opportunity.

**What will payments be based on?**

Quota holders will be eligible for payments if they owned a farm on October 22, 2004, to which a tobacco basic quota was assigned. The payment rate for these quota holders is \$7 per pound based on the 2002 basic quota. Producers will be eligible for payments if they shared in the risk of producing quota tobacco in 2002, 2003 or 2004. The payment rate for producers is \$3 per pound based on their share in the risk of tobacco production.

**How will payments be made?**

Payments will be made in 10 annual installments. Payments may be assigned beginning with the FY 2005 payment or a successor-in-interest contract may be entered into beginning with the FY 2006 payment. No contract will be approved, or payment made, without a valid taxpayer identification number.

**What type of data is included with this letter?**

If you are a quota holder, additional information accompanies this letter. The attached quota holder data allows quota holders (not producers) to verify the accuracy of FSA records. It provides the quota holder Base Quota Level (BQL) pounds that may be eligible for payment. Please review the information on the attached sheet(s). If you believe the data is incomplete or inaccurate, you can bring verifiable documentation to the applicable USDA Service Center when you sign up for the TTPP (see sign-up information below). There is no producer data accompanying this letter. The producer BQL pounds will be provided by your FSA county office or USDA Service Center at time of sign-up.

**What documentation is needed to apply for TTPP?**

If you purchased or sold any land with quota pounds assigned to it on or before October 22, 2004, or purchased or sold quota pounds on or before October 21, 2004, not reflected in this notification, provide supporting documentation so FSA can update your records when you sign up for the TTPP.

Documentation acceptable to verify a change in ownership of land will be limited to copies of the deed that was finalized for the purchase of quota or land with quota assigned for the 2004 marketing year. All parties must have signed documentation dated on or before October 22, 2004. Acceptable

## TTPP Notification (Continued)



United States Department of Agriculture  
Tobacco Transition Payment Program

documentation to support the fact that you share in the risk of producing the crop in 2002, 2003 and/or 2004 would include, but is not limited to sale bills. FSA must approve all verifiable documentation.

#### How is Base Quota Level (BQL) calculated?

**For Quota Holders:** The BQL is based on the farm's 2002 basic quota. For tobacco other than flue-cured and burley, the county average yield for the 2001, 2002 and 2003 crop years is used to convert the allotment to quota pounds for payment purposes.

**For Producers:** The BQL for tobacco producers is calculated as follows for each farm for each applicable year 2002, 2003 or 2004:

- **Flue-cured and Burley** – for 2002 and 2003 the effective quota that was marketed is not to exceed 103 percent without regard to disaster lease and transfer plus prior year undermarketings that were dropped but considered planted. For 2004, the effective quota is determined without regard to disaster lease and transfer. For 2003 and 2004, the BQL is adjusted to the equivalent of the 2002 quota.

#### Disaster pounds:

- *leased from* a farm shall be added to the BQL
- *leased to* a farm shall be deducted from the BQL (undermarketings that result from over leasing under disaster conditions will be deducted from the next year's BQL)
- **Cigar Filler/binder tobacco** – 2002, 2003 or 2004 effective allotment on the farm multiplied by the farm's average yield for 2001, 2002 and 2003 (yields may not exceed 4,000 pounds per acre without verifiable production information). For 2003 and 2004, the BQL is adjusted to the equivalent of the 2002 quota.
- **For all other kinds of tobacco** – 2002, 2003 or 2004 effective allotment on the farm multiplied by the farm's average yield for 2001, 2002 and 2003 (yields may not exceed 4,000 pounds per acre without verifiable production information). For 2003 and 2004, the BQL is adjusted to the equivalent of the 2002 quota.

The BQL for all producers is based on the producer's share of the risk in producing quota tobacco on the farm for 2002, 2003 or 2004 crop year. Pounds may be adjusted among producers if all parties agree and the farm's BQL is not exceeded.

#### When do I sign up?

Sign-up for the TTPP will begin March 14, 2005, and ends June 17, 2005. It is very important that all quota holders and producers visit the local USDA Service Center office that oversees their quota (this may not be where you now live) and sign a TTPP contract during this period. Signatures using a power of attorney are acceptable if a FSA-211 with a print date of July 25, 2002 or later is filed in the county office and Item 2, "All current and all future programs" is specified. If you have farming interests in more than one county, contract(s) must be signed in each applicable county office. For additional information, please contact your local USDA Service Center, the Tobacco Transition Payment Program web site at <http://www.fsa.usda.gov/tobacco>, or the National Call Center at 1-866-887-0140.