

For: Tobacco State and County Offices

Tobacco Transition Payment Program (TTPP) – Quota Holder Provisions

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:

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

The Act provided authority for TTPP. Payments to eligible quota holders will provide compensation at the rate of \$7 per pound based on the basic quota at the 2002 marketing year level. The payments will be made in 10 annual installments beginning in FY 2005 and ending in FY 2014.

See Notice TB-1123 for producer provisions.

Disposal Date	Distribution
February 1 , 2006	Tobacco State Offices; State Offices relay to applicable County Offices

Notice TB-1124

1 Overview (Continued)

B Purpose

This notice informs State and County Offices:

- of TTPP provisions and the signup period
- of TTPP provisions for quota holders
- that one Notification and Attachment, shown in Exhibit 1, will be mailed to all quota holders of record beginning March 9, 2005.

C Signup Period

Signup for TTPP begins March 14, 2005, and ends June 17, 2005. Eligible quota holders must apply at the local County Office by completing CCC-955. A contract must be executed for each kind of tobacco quota owned. 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 Quota Holders

A Eligible Quota Holders-General Rule

An eligible tobacco quota holder is a person that was the owner of a farm on October 22, 2004, for which a basic tobacco farm marketing quota or farm acreage allotment for quota tobacco was established for the 2004 tobacco marketing year. A new farm allotment/quota established in 2003 or 2004 is not eligible for TTPP.

Notice TB-1124

2 Eligible Quota Holders (Continued)

B Contract for Purchase of a Farm

The following table provides exceptions to the general rule for eligible quota holders.

IF a written agreement was in effect on October 22, 2004, for the purchase of...	AND the parties had...	THEN...
all or a portion of a farm	agreed in writing as to the distribution of quota pounds	TTPP payment will be disbursed according to the agreement.
all of a farm or all of a tract of a farm	not agreed in writing as to the distribution of quota pounds	the quota will go with the tract having the quota.
a portion of a tract		the quota will be divided based on cropland.

Note: Quota pounds under a pending permanent transfer of quota pounds involved on the farm that has otherwise been agreed to in writing, shall be considered owned by the transferee.

County Offices shall ensure that determinations involving divisions of quota pounds for TTPP purposes are thoroughly documented in COC minutes. Copies of sales contract agreements shall be retained in the County Office. Follow 2-CM, paragraph 42, for examples of acceptable proof of ownership.

C Contract for Purchase of Quota (Transfer)

If an agreement for the permanent transfer of quota was in effect **before** October 22, 2004, and the parties have agreed to the transfer of the quota pounds on the farm, TTPP payment will be disbursed to the owner of the farm to which the quota was to be transferred. The permanent transfer of quota must be agreed upon by all associated parties in writing.

2 Eligible Quota Holders (Continued)

D Eligible Quota Holder With Life Estate

A person who retains a life estate in a farm or tract of a farm that has a tobacco quota attached is considered the eligible quota holder for the purposes of TTPP.

Example: John Smith owned FSN 1 with 10,000 pounds of basic quota attached. He deeded the land to his son, Jim, in June, 2002, but John Smith retained a life estate in the land. John Smith is the eligible quota holder for the purpose of TTPP.

E Quota Holders Who Are Deceased

If an eligible quota holder died after October 22, 2004, before entering into a contract for TTPP, quota pounds eligible for payment will be paid to the spouse and if there is no spouse to the estate.

F Eligible Quota Holders 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 quota holders 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-955's.

G Eligibility Is Attached to the Quota Holder

After an individual, entity, or joint operation has been determined as the eligible quota holder and enters into and has an approved CCC-955, eligibility attaches to the quota holder or successor-in-interest and remains, regardless of whether the:

- farm is sold that qualified the individual for TTPP
- individual, entity, or joint operation no longer has an interest in the production of tobacco on any farm.

Notice TB-1124

3 Eligible Quota Pounds for Quota Holders

A Poundage Eligible for TTPP

Quota pounds eligible for TTPP will be the basic quota allocated for crop year 2002. Quota pounds on land owned by universities are eligible for TTPP. The total quota pounds eligible for TTPP cannot exceed the 2002 base quota level (BQL) established for the farm. If there are multiple owners on a tract, all owners must agree on percentage shares of BQL. The BQL for each owner on the farm cannot exceed the farm's BQL.

For kinds of tobacco, other than flue-cured and burley, the basic quota was calculated by multiplying the 2002 basic allotment times the county average yield for 2001, 2002, and 2003.

If there was no production in the county in 2001, 2002, or 2003, the NASS yield was used to compute the 2002 basic quota. The NASS yields used for counties with no production are:

Cigar Filler/Binder (Types 42-44, 54 & 55)	2,230 lbs. per acre
Dark Air-Cured (Types 35-36)	2,475 lbs. per acre
Fire-Cured (Type 21)	1,746 lbs. per acre
Fire-Cured (Types 22-23)	2,676 lbs. per acre
Virginia Sun-Cured (Types 42-44, 54 & 55)	1,502 lbs. per acre

Note: If tobacco has been purchased and assigned to a farm that the purchaser of the quota does not own, TTPP quota holder payment is due to the owner of the farm.

B Protected Quota Pounds

Quota pounds which are protected under the Conservation Reserve Program shall be considered eligible pounds for TTPP.

4 TTPP Payment Provisions

A General Payment Provisions

Eligible quota holders are eligible to receive \$7 per pound based on the 2002 basic quota. The payments will be made in 10 annual installments beginning in 2005 and ending in 2014.

B TTPP Payment Formula

TTPP annual payments will be calculated by multiplying the eligible quota holder's BQL on each farm times \$0.70 per pound.

C Timing of Payments

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

4 TTPP Payment Provisions (Continued)

D Liens and Mortgages

Liens or mortgages held by financial institutions on farms with tobacco quota attached do not apply to TTPP payments.

E Bankruptcy

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

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

F Administrative Offset

TTPP payments are subject to administrative offset.

G Assignments

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

H Successor-in-Interest

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

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.

I Power of Attorney

FSA-211, dated 7-25-02, or later may be used if Item 2, "All current and all Future Programs", is specified.

Notice TB-1124

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 and Attachment



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 and Attachment (Continued)

USDAUnited 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.

TTPP Notification and Attachment (Continued)



United States Department of Agriculture
Tobacco Transition Payment Program

Attachment 1

Name
Address
City, ST, Zip Code
Last Four Digits of Taxpayer ID#

FOR INFORMATIONAL/REVIEW PURPOSES ONLY THIS IS NOT A CONTRACT

The following table provides data for each farm and tract on which tobacco quota pounds were assigned as of October 22, 2004:

QUOTA HOLDER

State	County	Kind of Tobacco	Farm Serial Number	Tract Number	Farm Owner	BQL ^{1/}
KY	Montgomery	Burley	10	20	John Doe	10,000
NC	Johnston	Flue-Cured	1	25	John Doe	10,000
					Jim Jones	
NC	Johnston	Flue-Cured	1	30	John Doe	5,000
					John Jones	
TN	Washington	Fire-Cured	25	40	John Doe	2,000

^{1/} BQL was calculated using the farm's 2002 Basic Quota/Allotment multiplied by the tract's contribution percentage to the farm. BQL is displayed under the first owner of record where multiple ownership exist on a tract. All parties on the tract must agree to the distribution of BQL pounds among the tract's owners.