

For: Tobacco State and County Offices

Tobacco Transition Payment Program (TTPP) Producers Sharing in the Risk of Production

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

The Fair and Equitable Tobacco Reform Act of 2004 stipulates that TTPP payments to eligible producers depend on producers having shared in the risk of producing quota tobacco in 1 or more of the crop years 2002, 2003, or 2004.

Many questions have been received about the revision of TTPP producer shares. While TTPP regulations allow producers to change shares, it is critical that these revisions do **not** compromise the original definition of producer eligibility.

Note: See Notice TB-1123 for additional producer TTPP provisions.

B Purpose

This notice provides additional information about sharing in the risk of production to tobacco State and County Offices.

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

2 Definitions

A Eligible Tobacco Producer

An eligible tobacco producer is an owner, operator, landlord, tenant, or sharecropper who shared in the risk of producing tobacco on a farm where tobacco was produced, or considered planted, to which a tobacco poundage quota or acreage allotment was assigned for the 2002, 2003, or 2004 marketing years and who otherwise meets the requirements of wetlands and highly erodible land provisions and the controlled substance provisions.

B Eligible Production Documentation

CCC will consider as eligible production documentation, for purposes of determining if an eligible tobacco producer shared in the risk of producing a crop in 1 of the 3 eligible crop years, documentation presented by the producer that includes but is **not** limited to:

- written leases
- contracts for the purchase of tobacco
- crop insurance documents
- receipts for the purchase of items used to produce tobacco.

C Share in the Risk of Production

To share in the risk of production, an eligible tobacco producer must have a direct financial interest in the successful production of a crop of tobacco through ownership of a direct share in the actual proceeds derived from the marketing of the crop, which share is conditional upon the success of that marketing.

3 General Information About Sharing in the Risk of Production

A Fixed Pricing

A person that did **not** share in the risk of production is **not** eligible to receive payment.

Example: A person who receives a fixed amount per pound of effective quota would be ineligible to receive a TTPP producer payment because that person does **not** share in the risk of production. In this case, the fixed amount per pound the person received for the tobacco was **not** dependent on producing the tobacco.

4 TTPP Shares

A Production Risk

The general principle governing TTPP shares is “risk in the production of the crop.” Risk is defined by the following:

- direct financial interest
- direct share in actual proceeds
- share is **conditional** upon successful marketing.

B Payment Share Division

The division of payment shares must be:

- fair and equitable
- equal to the producer share in risk of production
- supported by documentation, either FSA-578 or other documentation provided by the producer.

5 Acreage Report Shares

A Revising Shares

FSA-578 is the initial source for acreage report shares; however, there are cases where FSA-578 may not accurately represent the producer risk of loss. In these cases, the producer shares can and should be revised in the TTPP contract software if **all** the following apply:

- purpose of the revision is to correct shares to more accurately reflect actual risk of loss in the crop
- all producers agree and the revised shares do not exceed 100 percent
- the COC approves the revised shares based on documentation provided by the producer or on file in the County Office.

5 Acreage Report Shares (Continued)

B Reporting Shares

The shares in a crop of tobacco reflected on an acreage report for the 2002, 2003, or 2004 marketing year must **not** exceed 100 percent. Modifying producer shares on the acreage report for TTPP must reflect each producer's **actual** share. Zero shares cannot be accepted and approved if a person **did** share in the risk of producing the tobacco.

Example: There are 2 producers on a farm for 2003. Producer A cannot enroll for a 'zero share' and Producer B enroll for 100 percent simply because both producers agree to this distribution of TTPP payments.

If a person applies for TTPP payments that does **not** appear on the acreage report, CCC will consider eligible production documentation to substantiate that the producer did indeed share in the risk of producing the crop.

C Commensurate Payments to Risk

The shares of TTPP payments shall be commensurate to the producer's risk of producing the tobacco.

6 Examples

A Percentage Share

The acreage report indicates a share of 25 percent to the quota holder and 75 percent to the producer. The quota holder receives 25 percent of the net sales each time the producer markets tobacco. The quota holder meets the definition of sharing in the risk of producing the tobacco and is therefore eligible for 25 percent of the TTPP payments. The quota holder may not opt to sign for a 'zero share' of the payments.

B Fixed Price With Risk

A quota holder receives a fixed price per pound for only the pounds that are marketed. The quota holder meets the definition of sharing in the risk of producing the tobacco because the quota holder only receives payment for tobacco that was marketed.

C Fixed Price With No Risk

A quota holder receives a fixed price per pound of effective quota at the beginning of the season and independent of the marketing of tobacco. The quota holder does not meet the definition of sharing in the risk of producing the tobacco because the quota holder received payment regardless of whether the tobacco is produced and/or marketed.

Notice TB-1146

7 Action

A State Office Action

State Offices shall ensure that County Offices follow the provisions in this notice.

B County Office Action

County Offices shall follow the provisions in this notice.