

such handler; and if there are subsequent changes in arrangements, the committee shall similarly be notified.

[43 FR 15609, Apr. 14, 1978]

**§ 967.151 Base Quantities.**

(a) Pursuant to § 967.37(d)(1) a reserve of Base Quantities shall be established annually beginning with the 1978-79 season. Each annual reserve shall amount to 6 percent of the total of Base Quantities in effect for the previous season.

(1) Applicants for Base Quantities must apply to the committee for a portion of the reserve not later than April 15 each year on such forms as may be prescribed by the committee. Such forms may include, but not necessarily be limited to, details on:

(i) Individual or firm name and address.

(ii) Location and size of farming operation.

(iii) Evidence of any firm and substantial arrangements or commitments, such as contractual arrangements with credit agencies, handlers, fertilizer dealers, management agencies and others for the production and marketing of celery, including reference to land, equipment, occupation, crops produced, and past experience in farming. Applicants for increases in Base Quantity also should provide substantial evidence of a capability to produce and market additional celery including specific references to celery sales relative to Marketable Allotments, production facilities and marketing facilities.

(b) Upon receipt of the completed application forms the committee shall consider and make determinations of the allocation of annual reserve Base Quantities among eligible applicants. Up to 50 percent of the total reserve shall be allocated among new producers. Such producers shall be those applicants who have no Base Quantity under the order, and any reserve Base Quantity distributed to such applicants shall be for the purpose of establishing new production and marketing of celery. Up to 50 percent of the total reserve shall be allocated among producer applicants with existing bases. In the event total applications in either category (new producers or producers

with existing bases) exceed the amount of reserve Base Quantity authorized, the reserve in each category shall be apportioned among eligible applicants on a uniform basis. Any balance of the reserve which has not been allocated during a season shall not carry forward into the following season.

(c) As provided in § 967.37, the committee may provide for informal review in open meeting of the committee, or subcommittee thereof, of applicants' request for increases in Base Quantities or for Base Quantities. Such meeting shall be so conducted that an accurate record shall be made of relevant evidence presented. The record of such informal review, with references to relevant data and information presented, shall be retained by the committee and shall be subject to review by the Secretary.

(d) Each completed application form submitted to the committee shall be considered and determinations shall be made thereon. The committee shall notify each individual in writing of the action taken on the applications submitted. If the committee has not advised an individual of its decision by July 15, the individual may appeal to the Secretary for appropriate consideration thereof.

(e) To administer this part in accordance with its terms and provisions, a record of each Base Quantity and each Marketable Allotment shall be maintained by the committee.

(1) Whenever any Base Quantity or any Marketable Allotment is established for a producer, the committee shall so record and advise such producer on forms designated by it.

(2) No producer may transfer any Base Quantity or Marketable Allotment or obtain the same without first submitting a report containing all the details of the proposed transfer to the committee for record keeping and verification. Such reports shall be on forms prescribed by the committee and shall include, but not necessarily be limited to, and as applicable, Base Quantity or Marketable Allotment held, number of crates to be transferred and the specific period of time the transfer will be in effect, name and address of the producer to whom such

Base Quantity or Marketable Allotment is being transferred, number of crates marketed in the representative period, qualifications as a producer and particulars on the sale and handling of the celery referable to the transferred Base Quantity or Marketable Allotment. The committee will only give consideration to requests for transfers of Base Quantity prior to the time the Marketable Quantity is recommended to the Secretary for a particular season, after which time requests for transfers of Marketable Allotments may be made to, and considered by the committee: *Provided*, That, (i) pursuant to § 967.36(b), transfers of Marketable Allotment may only be made to holders of Base Quantity; and (ii) requests for transfers of Base Quantities for any future season may be made at any time, except, pursuant to § 967.37, no Base Quantity or portion thereof issued to a new producer may be transferred within 3 years of the date of issuance.

(3) No handler may purchase harvested celery from, or handle harvested celery on behalf of, any producer, under a Base Quantity or Marketable Allotment transferred from one producer to another producer, unless such transfer was approved by the committee and recorded by it, or appropriate subcommittee, and the transferee has been so notified by the committee.

(4) No transfer of all or a portion of a Base Quantity that was originally issued by the committee to a producer in an amount greater than 37,500 crates shall (i) cause the elimination of such Base Quantity from the Marketable Quantity or from the total Base Quantities when the Uniform Percentage is calculated pursuant to § 967.38(a), nor (ii) change the applicability of such Uniform Percentage in establishing the Marketable Allotment with respect to the portion of his Base Quantity that was not transferred, regardless of whether or not such remainder exceeds 37,500 crates. The same Uniform Percentage shall also be applicable to the transferee-producer with respect to all or the portion of the transferred Base Quantity, regardless of whether or not the transferred Base Quantity or portion thereof is 37,500 crates or less, or, when added to the Base Quantity origi-

nally issued to such transferee-producer, does not aggregate more than 37,500 crates.

(f) Base Quantities not used for two consecutive seasons shall be declared invalid and cancelled if no bona fide effort is made to produce and sell celery thereunder. In determining what constitutes a "bona fide effort," the committee should require evidence of:

(1) Commitment of all resources necessary for the production and marketing of a celery crop.

(2) Registration with the committee annually, pursuant to § 967.37(f), to indicate intentions and commitments to produce and market celery.

(3) Production and sale of at least 50 percent of the producer's seasonal allotment of celery in which he has a proprietary interest, unless prevented from doing so by acts of God or other circumstances beyond his control.

[43 FR 15609, Apr. 14, 1978]

#### § 967.152 Reserve for Base Quantities.

(a) Each season for which it recommends establishment of a Marketable Quantity under the provisions of § 967.36, the committee shall consider the need for a reserve for Base Quantities. Such consideration shall be directed to factors related to reserve needs, such as, but not necessarily limited to, the equitable apportionment of Base Quantities of celery among producers; and the need to meet additional demand for celery.

(b) The committee shall recommend to the Secretary, with its considerations and judgments thereon, the amount, if any, of harvested celery, in terms of crates, which should be established in a reserve for Base Quantities for the ensuing season. Such reserve may be calculated as a percentage of the total Marketable Quantity for a season or the then current Base Quantities, or shipments for a previous season or the average of shipments for two or more seasons, or on other similar basis to be determined by the committee with the Secretary's approval.

(c) The reserve, if any, for a particular season shall, for any season after the initial season, be established by the Secretary, pursuant to the committee recommendations or other available information, no later than