

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

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the date of the establishment of Marketable Quantity.

(d) Applicants for Base Quantities or increases of Base Quantities, who have registered under § 967.151(a), may apply to the committee for a portion of such reserve within such time and on forms prescribed by it. The committee shall consider each application in accordance with § 967.151(b) and the amount of celery needed to meet the Marketable Quantity or revised Marketable Quantity for the season, the historical supply available, and the decline or increase in volume of celery production by other producers; and, if approved thereunder, determine the Base Quantity for each such applicant.

(e) Any balance of the reserve which has not been distributed during a current season shall not carry forward into the following season.

§ 967.155 Revised Base Quantity formula.

As soon as practicable following the May 1, 1979, registration deadline, Base Quantities for all producers of record with the Florida Celery Committee as of December 15, 1976, shall be revised to be effective for the 1979-80 season as follows and in the order enumerated:

(a) Application of the provisions of §§ 967.37(e) and 967.39 as it pertains to permanent transfers.

(b) Selection of the highest number of crates of celery produced and shipped by or for each producer during any one of the five seasons, 1974-75 through 1978-79, or his Base Quantity for the 1978-79 season, whichever is greater: *Provided however*, no producer who produced and shipped celery during each of the five seasons, 1974-75 through 1978-79, shall lose all or any portion of his Base Quantity by the application of § 967.39 pertaining to specified period of time transfers, which were approved by the committee prior to the commencement of the 1974-75 season: *And provided further*, any new producer who is issued a Base Quantity by the committee under § 967.37(d) or by transfer after December 15, 1976, shall retain his present Base Quantity.

(c) Any producer who transferred, with approval of the committee, all or a portion of his Base Quantity for a specified period of time prior to the

commencement of the 1974-75 season shall have the transferred Base Quantity reissued to him upon the expiration date of such transfer.

[43 FR 57240, Dec. 7, 1978]

REPORTS AND RECORDS

§ 967.165 Reports.

(a) Pursuant to § 967.45, the following reports shall be furnished by each handler to the committee at such time and on such forms as it may request:

(1) A report of daily celery handlings broken down by number of crates, sizes, and each producer thereof.

(2) A weekly report of assessments due the committee.

(b) Pursuant to § 967.37(c), the following reports shall be furnished by producers as a condition for obtaining, holding, or transferring Base Quantities or Marketable Allotments:

(1) A weekly celery report showing acreage planted and harvested, and the number of crates harvested each day.

(2) A weekly report by each producer who marketed celery verifying the number of crates marketed and the balance of such producer's Marketable Allotment.

(3) Anticipated planting and harvesting schedule by each producer for the ensuing season, including total acres to be planted, beginning and ending dates of planting and harvesting, total production, for whom grown, and handler or handlers thereof.

(4) A report by each producer of production when done under contract giving such information as location, total acres to be planted, beginning and ending dates of planting and harvesting, handler, breakdown of proprietary interest by blocks and percent of ownership of other producers who have an interest.

(5) Pursuant to § 967.37, the committee shall be notified within a reasonable length of time by the executor, attorney, or receiver as applicable, following the death of a producer, or upon dissolution of any partnership, corporation or company which is a producer, who or which is a holder of a Base Quantity, of (i) the current status of the Base Quantity, and (ii) the final