

§ 991.52 Issuance of Volume Regulation.

(a) Whenever the Secretary finds, on the basis of the Committee's recommendation or other information, that limiting the total quantity of Alpha Acid of any crop that handlers may purchase from producers during a marketing year, would tend to effectuate the declared policy of the act, the Secretary shall establish the salable quantity for that crop. The salable quantity shall be prorated among producers by applying an allotment percentage to each producer's allotment base. The allotment percentage shall be established by dividing the salable quantity by the total of all producers' allotment bases.

(b) When an allotment percentage is established for any marketing year, no handler shall purchase from producers any Alpha Acid during such year unless:

(1) It is, at the time of handling, within the unused portion of a producer's annual allotment, and

(2) Such handler notifies the Committee of the handling in such manner as the Committee may prescribe.

(c) An Alpha Acid Factor shall be established for the ensuing marketing year for each variety of hops and shall be equal to the most recent three year average of the Alpha Acid for each variety. If there is not a 3 year average for a variety the Committee shall determine the Alpha Acid Factor for that variety until a three year average is available. The Alpha Acid Factor for each variety shall be determined in accordance with rules and regulations established by the Committee. The Alpha Acid Factor shall be established no later than November 15 of each year. A producer may forward sell any variety of hops in an amount equal to that variety's production times the Alpha Acid Factor for that variety for the year for which the Alpha Acid Factor has been established, or the producer may sell any combination of varieties, provided that, in any case, the total quantity sold is within the producer's salable quantity for that year.

§ 991.53 Allotment Base.

(a) The Representative Base Period shall be the marketing years 1997, 1998, 1999, 2000, 2001 and 2002; *Provided* that, a producer must have produced hops in the 2001 and/or 2002 crop year to be eligible to apply for initial allotment base.

(b) Initial Issuance: Each eligible producer desiring an allotment base for hops shall register with the Committee and furnish to it, on forms provided by the Committee, the following:

(1) The Actual Production (in number of pounds) of each variety of hops produced during the highest production year of the Representative Base Period and the name of the handler(s) each variety of hops was sold to during that year.

(2) The Alpha Acid Percentage for each variety of hops with an Alpha Acid percentage of 10% or more produced during the year selected pursuant to § 991.53(b)(1).

(3) The County and State where the production of each variety of hops occurred during the year selected pursuant to § 991.53(b)(1).

(4) As verification for the information submitted to the Committee, the producer shall also submit a copy of the appropriate state certification documents, or, if such documentation is unavailable, a copy of the handler ultra violet spectral analysis documentation relative to the submissions pursuant to this section.

(5) The Executive Sub Committee shall act as a Hardship Committee for establishment of initial allotment base. Any producer has the right to petition the Hardship Committee for special consideration for their initial allotment base, provided that, such petition is in writing, and that it is based solely on hardships brought about by acts of God. The Hardship Committee may elect to defer their decision to the Administrative Committee.

(6) The Committee shall not be required to accept applications for initial allotment base after one year from the effective date of this part.

(7) A producer who has changed or changes identity from an individual producer to a partnership or corporate producer, or from a partnership to a corporate or individual producer, or from a corporate to a partnership or individual producer, may for the purpose of establishing the initial and subsequent allotment base, register with the Committee as one and the same person.

(c) The Initial Allotment Base shall be established by the Committee for each registered producer based on the information submitted by the producer pursuant to 991.53(b), as follows:

(1) For each variety over 10% Alpha Acid Percentage, that "Variety Alpha Acid Base" contribution to the total Alpha Acid Allotment Base shall be determined by multiplying the Actual Production by the Actual Alpha Acid Percentage of that variety for the chosen year.

(2) For each variety equal to or less than 10% Alpha Acid Percentage, that "Variety Alpha Acid Base" contribution to the total Alpha Acid Allotment Base

shall be determined by multiplying the Actual Production of that variety for the chosen year by a flat rate of 10%. The sum of all of the "Variety Alpha Acid Bases" as calculated above shall be the producer's "Initial Allotment Base."

(d) Adjustment to allotment base.

Periodically, but at least once every five years, the Committee shall review and may adjust each producer's allotment base to recognize changes and trends in production and demand. Any such adjustment shall be made in accordance with a formula prescribed by the Committee with the approval of the Secretary.

(e) Additional allotment base. (1) The Committee annually shall make additional allotment bases available in the amount of no more than 1 percent of the total allotment base. Fifty percent of these additional allotment bases shall be made available for new producers and 50 percent made available for existing producers; *Provided that*, in any year in which the current salable percentage is equal to or less than the previous year's salable percentage, the Committee shall not be required to make additional base available for the ensuing marketing year.

(2) Any person may apply for an additional allotment base by filing an application with the Committee on or before December 1 of the marketing year preceding the marketing year for which the additional allotment bases will be made available.

(3) The Committee shall, with the approval of the Secretary, establish rules and regulations to be used for determining the distribution of additional allotment bases.

In establishing such rules, the Committee shall take into account, among other things, the minimum economic enterprise requirements for hop production, the applicant's ability to produce hops, the area where the hops will be produced and other economic and marketing factors.

(f) Bona Fide Effort Requirement: The right of each producer receiving an allotment base, or any legal successor in interest, to retain all or part of an allotment base, shall be dependent on continuance to make a bona fide effort to produce the annual allotment referable thereto and failing to do so, such allotment base shall be reduced by an amount equivalent to such unproduced portions; *Provided*, that a producer's reserve pool shall be included in the bona fide effort requirement. The Committee shall develop the bona fide effort requirement.

(g) Notwithstanding the foregoing, any person or entity who has entered the