

## Agricultural Marketing Service, USDA

## § 998.28

a new nominee within 40 calendar days, may be filled pursuant to § 998.21.

### § 998.25 Compensation and expenses.

The members of the committee, and the alternate members when acting as members, shall serve without compensation but shall be allowed their necessary expenses, actual or per diem as approved by the committee.

### § 998.26 Procedure.

All decisions of the committee reached at an assembled meeting shall be by majority vote of the members present except that a change of a quality regulation shall require approval of 75 percent of the members. Meetings, or portions of meetings, concerned with marketing policy or quality regulation shall be open to all members of the peanut industry. All votes in an assembled meeting shall be cast in person and a quorum must be present for a valid decision. A quorum shall consist of not less than 50 percent of the producer members and 50 percent of the handler members. The committee may vote by mail or telegram upon due notice to all members, but any proposition so voted upon first shall be explained accurately, fully, and identically by mail or telegram, to all such members. When any proposition is submitted to be voted on by such method, one dissenting vote shall prevent its adoption. Failure of any member, or alternate acting for a member, to vote within a prescribed time shall be held to be a dissenting vote.

### § 998.27 Powers.

The committee shall have the following powers:

- (a) To administer the agreement in accordance with its terms and provisions;
- (b) To receive, investigate, and report to the Secretary, complaints of violations of this agreement; and
- (c) To recommend to the Secretary amendments to this agreement.

### § 998.28 Duties.

The committee shall have the following duties:

- (a) To act as intermediary between the Secretary and any producer or handler;

- (b) To keep minutes, books, and other records which shall clearly reflect all of its acts and transactions and these shall be subject to examination by the Secretary at any time;

- (c) To investigate and assemble data on the production, handling, and marketing of peanuts;

- (d) To submit to the Secretary such available information with respect to peanuts as he may request and such other information as the committee may deem desirable and pertinent;

- (e) To select from among its members a chairman and other officers and to adopt such by-laws for the conduct of its business as it may deem advisable;

- (f) To appoint or employ such persons as it may deem necessary and to determine the salaries and define the duties of each such person;

- (g) To cause the books of the committee to be audited by a certified public accountant at least once each crop year and at such other times as the committee may deem necessary or as the Secretary may request, to submit two copies of each such audit report to the Secretary, and to make available a copy which does not contain confidential data for inspection at the offices of the committee by producers and handlers;

- (h) To prepare and submit to the Secretary quarterly statements of the financial operations of the committee and to make such statements together with the minutes of the meetings of said committee available for inspection at the offices of the committee by producers and handlers;

- (i) To give the Secretary the same notice of meetings of the committee as is given to members;

- (j) To investigate compliance with and to use means available to the committee to prevent violation of the provisions of this agreement; and

- (k) To establish with the approval of the Secretary such rules and regulations as are necessary or incidental to administration of this agreement, as are consistent with its provisions, and as would tend to accomplish the purposes of this agreement and the act.

## MARKETING POLICY

**§ 998.30 Marketing policy.**

Prior to May 31, the committee shall prepare and submit to the Secretary a report setting forth its recommended marketing policy covering quality regulations for the pending crop. In the event it becomes advisable to modify such policy, because of changed conditions, the committee shall formulate a new policy and shall submit a report thereon to the Secretary. In developing the marketing policy, the committee shall give consideration to the production, harvesting and storage conditions, probable quality of crop, grading and treatment methods, inspection capability, demand for peanuts in domestic and foreign markets, the basis of handler indemnification, the probable assessable tonnage for the purposes of § 48 and such other factors as may have a bearing on the peanut quality regulation or the administration of this agreement. Notice of the committee's marketing policy, and of any modifications thereof, shall be given promptly by reasonable publicity, to producers and handlers.

## QUALITY REGULATION

**§ 998.31 Incoming regulation.**

No handler shall receive or acquire peanuts, either from a producer or other person, unless such peanuts were determined pursuant to § 998.33 to be Segregation 1 peanuts at time of receipt from the producer or, if received from another person, had not been mixed with peanuts of a lower quality than Segregation 1: *Provided*, That a handler may.

(a) Receive or acquire and deliver for seed purposes farmers stock peanuts with not more than 3 percent damaged kernels nor more than 10 percent moisture if such peanuts were produced under the auspices of a State agency which regulates or controls the production of seed peanuts;

(b) Acquire shelled peanuts from the Commodity Credit Corporation (CCC) or cleaned inshell or shelled peanuts from handlers subject to this agreement, or from buyers who have purchased such peanuts from such handlers or from CCC, if the lot has been

certified as meeting the requirements of § 998.32(a) and the identity is maintained;

(c) Perform services for an area association pursuant to a peanut receiving and warehouse contract; and

(d) If a crusher, acquire peanuts of a lower quality than Segregation 1 as oil stock upon such conditions as the committee, with the approval of the Secretary, may prescribe.

Segregation 2 peanuts which are wholesome relative to mold damage may be acquired from peanuts held by CCC or an area association when released by the Secretary as needed to fill demand. In the situation of § 998.35, the Secretary may authorize handlers to acquire Segregation 2 peanuts from producers or intermediaries. The acquisition of loose shelled kernels or their removal from farmers stock peanuts shall be in accordance with such procedures as the committee, with the approval of the Secretary, may establish.

**§ 998.32 Outgoing regulation.**

(a) No handler shall dispose of for human consumption, peanuts which fail to meet such U.S. grade requirements, or modifications thereof, or requirements as to wholesomeness as the committee, with the approval of the Secretary, may specify including the tolerance for moldy peanuts, time in storage, or other pertinent factors. No inspection certificate issued pursuant to § 998.33 shall be effective if unacceptable to the committee or for more than such period of time as the committee, with the approval of the Secretary, may prescribe. Peanuts which fail to meet the requirements specified pursuant to this section shall be disposed of by delivery to the Commodity Credit Corporation or in such manner as may be prescribed by the committee with the approval of the Secretary.

(b) Notwithstanding the restrictions contained in this section, and handler may transfer peanuts from one plant owned by him to another plant owned by him or to commercial storage without having an inspection made as provided for in § 998.33. No such transfers shall be made except in accordance with such procedures as the committee, with the approval of the Secretary, may prescribe for movement