

**COMMONWEALTH OF PUERTO RICO  
DEPARTMENT OF AGRICULTURE  
SAN JUAN, PUERTO RICO 00908**

**REGULATION NO. 1 OF THE OFFICE FOR THE REGULATION AND PROMOTION  
OF THE FORAGE INDUSTRY**

**SECTION I - LEGAL BASE**

This Regulation is adopted by virtue of Act No. 238, of September 18, 1996, which creates the office for the Development of the Livestock Industry. Also, it is promulgated by virtue of the aspects established on Act No. 170 of August 12, 1988, as amended, known as "Uniform Administrative Procedure Act".

**SECTION II – PURPOSE**

The Office for the Regulation and Promotion of the Forage Industry was created with the main purpose of promoting activities, programs and services, which propitiate the development of the Forage Industry of Puerto Rico.

On the other hand, Act No. 238 of September 18, 1996, in order to propitiate the development and welfare of the Livestock Industry of Puerto Rico, has the commitment of stimulating this sectors self-control through the encouragement of the active participation of its components in the processes of planning and in the creation of those mechanisms to strengthen them.

In agreement, the Forage Industry requires to be organized in a centralized manner, in a way that it can provide more accessibility to the information and technical orientation necessary to make this industrial sector more efficient and productive.

**SECTION III – DEFINITIONS**

For the purposes of this Regulation, the following terms and phrases shall have the meanings stated hereinbelow:

1. Inventory Center                      Physical facilities for the pickup, classification, inspection, storage, and distribution of the forage products.
2. Department                              The Department of Agriculture of the Commonwealth of Puerto Rico.
3. Silage                                      Stored forage through anaerobic fermentation, with an approximate moisture of sixty-five (65%) percent.
4. Exportation                              Sale or distribution of Forage or Forage products from Puerto Rico to other counties.
5. Fund                                        Fund for the Development of the Forage Industry.
6. Forage                                      Vegetative food for domestic animals that includes stored grass such as: hay, haylage, green chops, and silage. The following may be considered as Forage:  
Buffel – *Cenchrus ciliaris*      Elephant – *Pennisetum purpureum*  
Star – *Cynodon nlemfuensis*    Guinea- *Panicum maximum*  
Pangola – *Digitaria Decumbens*    Signal–*Brachiaria brizantha*  
Sorgo – *Sorghum ssp*
7. Green Chop                              Chopped grass offered fresh to animals, it has more than eighty-five (85%) percent of moisture.
8. Hay                                         dehydrate forage with a moisture lower than twenty - five (25%) percent.
9. Haylage                                  Stored forage with an approximate moisture of thirty five percent (35%)
10. Importation                              Purchase or introduction of forage or forage products from other countries.
11. Industry                                  The Forage Industry of Puerto Rico, everything that has to do with the production, classification, packing, elaboration, storage and purchase and sale of the products within the Forage sector, including imported forage and any other activity thus determined by the Administrative Board of the forage sector.
12. Board                                      Administrative Board of the forage sector.

13. Act 238: means the Act No. 238 of September 18, 1996, as amended, also known as “Act to create the Puerto Rico Agriculture and Livestock Industry Regulating Office”.
14. License Certification of Forage producer issued by the Board
15. Marketing: means the ownership, sale or offering for sale at any level, transfer, donation, transportation, storage, processing or handling, which is produced in.
16. Office Office for the Regulation and Promotion of the Forage Industry of Puerto Rico.
17. Regulating Officer: The Secretary Auxiliary of Agricultural Economic Development is the official designated by the Secretary of Agriculture to develop the regulation of the livestock industry.
18. Producer: Any person who owns, manages or is in charge of farms, which generate agricultural activities that lead to the gramineous and legumin production in the island of Puerto Rico.
19. Secretary: means the Secretary of the Department of Agriculture of the Commonwealth of Puerto Rico or his authorized representative.
20. Sector: Group of persons devoted to a similar activity within a livestock industry such as producers, processors and manufacturers, etc.
21. Deputy Regulating Officer (Executive Director) Official designated by the Secretary to preside over the works of the Administrative Board of the Office and who shall also hold the position of the Director of the Office pursuant to Act 238.

## **SECTION IV – OFFICE FOR THE REGULATION AND PROMOTION OF THE FORAGE INDUSTRY**

1. The Office for the Regulation and Promotion of the Forage Industry is created in the Department of Agriculture of the Commonwealth of Puerto Rico, which will have among other functions provided in the Act and this Regulation, the responsibility to adopt and to put into effect programs and measures geared to foster the development of a prosperous Forage Industry, as well as to solve and organize various situations or problems related to the production, manufacturing, promotion, distribution and sale of Forage.
2. The Office for the Regulation and Promotion of the Forage Industry shall be attached to the Office of the Secretary Auxiliary of the Agricultural Economic Development, whose operations shall be financed with charges to the resources provided in the consolidated budget of the Department of Agriculture of the Commonwealth of Puerto Rico, as well as the Fund for the Development of the Forage Industry of Puerto Rico, subject to purposes of the Act 238 and this Regulation.

## **SECTION V – POWERS AND DUTIES OF THE DEPUTY REGULATING OFFICER**

The Deputy Regulating Officer shall have, in addition to the powers and duties provided on Act 238, this Regulation and the regulations promulgated thereunder, the following duties.

1. Shall coordinate the Regulation of the Forage Industry in Puerto Rico and shall order, promote and provide the development of the Industry, putting emphasis to the marketing of its products.
2. Develop promotional, research, publicity and orientation program and projects for the consumer and the Forage Industry prior consultation and approval of the Board.
3. Shall propitiate greater participation of the producers of forage of Puerto Rico on governmental decisions with respect to the production and marketing of this sector.

4. Shall enforce the public policy established by act and regulations under his management, prior consultation and approval of the Administrative Board.
5. Shall establish a registry of producers, manufacturers any other component within the sector.
6. Shall perform all the activities, agreements, contracts and programs, which are proper and necessary to comply with the purposes of the Acts and regulations at his charge, prior consultation and approval of the Administrative Board.
7. Determine, with the prior approval of the Regulating Officer, the internal organization of the Office and shall establish those systems needed for its proper functioning and operation, as well as to carry out those administrative and managerial tasks needed to put into effect the Act as well as any other laws, regulations and programs under his/her responsibility.
8. Appoint, with the approval of the Secretary, the personnel needed to carry out the purposes of the Act, which shall be subject to the provisions of Act No. 5 of October 14, 1975, as amended, known as the "Puerto Rico Public Service Personnel Act" and who shall avail themselves to the benefits of Act No. 447 of May 15, 1951, as amended, which establishes the Retirement System of the Employees of the Government of Puerto Rico and its instrumentalities, and of the benefits of Act No. 133 of June 28, 1966, as amended, which establishes the Savings and Loan Fund of Commonwealth of Puerto Rico Employees. Any person with a financial interest in any business or activity related to the Forage Industry shall hold a position in the Office. The Officials and employees shall also be subject to the provisions of Act No. 12 of July 24, 1985, as amended, known as "Ethics in Government Act" of the Commonwealth of Puerto Rico.
9. Contract with the approval of the Secretary of Agriculture, those technical and professional services he may deem necessary to

achieve the purposes of the Act subject to the applicable norms and regulations of the Department of the Treasury

10. Render, no later than the month of January of each year, to the Secretary and to the Regulating Officer, a complete and detailed report stating all Office activities as well as its achievements, programs, aids and trainings granted and the surplus of funds.
11. Develop and keep satisfactory conditions of marketing which tend to protect the production and distribution of forage in Puerto Rico.
12. Shall establish norms of classification, packing, containing, labeling, quality and presentation of the forages in accordance with the parameters of the Board.
13. Avoid monopolized practices and disloyal competency, as well as discrimination in the various phases of the industry from production to selling forage of Puerto Rico and imported, and its derivatives to the consumer.

#### **SECTION VI – INVESTIGATIVE POWERS OF THE DEPUTY REGULATING OFFICER**

1. In the performance of the duties imposed by Act 238 and in the exercise of the powers by it conferred, the Deputy Regulating Officer may issue summons commanding the presence of witnesses and the presentation of financial data the information he/she deemed necessary for the administration of Act 95, Act 238 and the regulations approved thereunder. The information thus obtained shall be confidential in nature and shall be kept confidential by all officials and employees of the Department of Agriculture and through prior order of the General Court of Justice of Puerto Rico.

The aforementioned provisions shall not be construed as limiting the power of the Deputy Regulating Officer to issue general information based upon the reports about the number of persons subject to Office regulations, statistical data compiled, which reports shall not identify the source of information supplied by any person whatsoever. Witnesses summoned by the Deputy Regulating Officer in the interest of the Office,

shall receive per diems at the rate stipulated for witnesses summoned by the Courts of Puerto Rico.

2. The Deputy Regulating Officer or his duly authorized representative may take oaths, hear testimony, and receive data and information.
3. Should a summons issued by the Deputy Regulating Officer were not duly complied with, said official may appear before the General Court of Justice of Puerto Rico and request the Court to order that the summons be complied with. The General Court shall give preference to the course and dispatch of said petition and shall have the authority to dictate orders to compel the appearance of witnesses or the presentation of any data or information previously requested by the Deputy Regulating Officer according to the provisions in the Act and this Regulation.
4. No natural or juridical person may refuse to comply with a summons from the Deputy Regulating Officer or with a judicial order so issued, claiming that the testimony, data or information thus required could incriminate him/her; or lead to the imposition of a penalty. Although, said person may not be criminally prosecuted regarding any transaction, matter or thing with relation to which said person has given testimony or provided data or information.

#### **SECTION VII – NORMS**

1. The Deputy Regulating Officer may order, in accordance with the Administrative Board the various phases of the Forage Industry subject to the provisions Act 238 and this one or any other regulation promulgated whenever it is necessary to put into effect the public policy and the purposes of said Act.
2. The Deputy Regulating Officer shall require persons who operate businesses within the Forage Industry all information needed for the implementation of Act 238 and the regulations promulgated thereunder, but shall not require confidential information whose disclosure may injure the person in relation to its competitors or other person regarding a mechanism to guarantee the confidentiality of the information furnished.

## **SECTION VIII – FUND FOR THE DEVELOPMENT OF THE FORAGE INDUSTRY OF PUERTO RICO**

1. The Fund for the Development of the Ornamentals Industry in Puerto Rico is created through Act No. 238, to be used for the promotion of the production, sale, manufacture of forage in Puerto Rico and for taking any other necessary steps for the progress of the Forage industry. The fund shall be administered by an Administrative Board, which is described below. Contributions to the Fund shall become payable thirty days after the effective date of this Regulation.
2. The Fund shall be supported by contributions from the producers at a rate the total amount of the same as determined by the Administrative Board, after a consultation with its components as well as any other economic source proposed by its constituents.
  - A. The money shall be deposited in those banking institutions determined by the Board, which are acknowledged as depositaries for the funds of the Commonwealth of Puerto Rico, although they shall be maintained in account or accounts in the name of the Fund. Collections and disbursements shall not be subject to the pre-auditing by the Secretary of the Treasury. Said funds shall be deposited in banking accounts separated from any other funds. The deposit slips shall be marked with successive numbers during each fiscal year and shall have as a prefix the number of the year.

### **Accountability of Funds**

- A. Every transaction related to these funds shall be recorded in the appropriate records in accordance with the accountability practices generally accepted. The accountability books shall be kept separated from books corresponding to any other funds. It shall be reconciled monthly with the bank account.
- B. The Deputy Regulating Officer may not act as the Fiscal Agent of the same. A Fiscal Agent shall be designated, who shall be in charge of receiving, recording and making disbursements of money as well as

keeping all vouchers and fiscal related documents. Two (2) signatures shall be required to draw on said account.

C. Disbursements shall be made only through checks and only for the payment of the expenses directly related to the purposes to which the contribution was assigned in accordance to the application documents submitted to the Legislative Assembly.

D. No checks shall be draw on the holder, or payments in cash with charges to the contribution. The entities shall keep in their records Invoices, vouchers or any other document which proves the incurred expenses of each budget line, where indicates the amount, the account of, and the person or entity who issues said document. These shall be kept at the disposition of the officials of the Department of Agriculture, the Committees of the Treasury, of the Legislature and the Office of the Comptroller for any fiscal auditing and for the corresponding revision and confirmation of the trimestral reports for a term of six (6) years or until the officials of the Department of Agriculture have performed the corresponding examination, whichever come first.

#### **SECTION IX – ADMINISTRATIVE BOARD OF THE FORAGE INDUSTRY**

1. An organization composed by the Forage Producers is hereby created; the same shall elect the members of the Administrative Board during the assembly of the Industry.
2. Any Forage producer, which is a bona-fide farmer, may belong to this organization and to the Administrative Board of the Industry.
3. From this group of producers of Forage shall elect their own Board of Directors, which shall be organized in a lucrative organization and shall be empowered to approve their own regulations. If the Administrative Board recommends so, other organizations duly recognized may elaborate internal regulations, but those regulations cannot prevail over the regulation herein, which is decreed pursuant to Act No. 238. In cases of conflict this regulation shall prevail.

4. This Board shall be presided by the Deputy Regulating Officer of the Industry.
5. The Board may appoint the personnel to comply with the purposes of this Act.
6. This Administrative Board of the Forage Industry shall administer the Fund, shall have the power, conforming with the provisions of Act 238, to order and dispose of all phases of the Forage Industry in Puerto Rico in the areas of production, storage, purchase, sale, marketing, transportation, distribution and/or any other area deemed by the Board.
7. This Board is empowered to approve their own regulations and to establish the internal procedures needed for an adequate functioning.
8. The Board shall be composed of nine members acknowledged as forage producers and from these shall be elected the secretary and the treasurer. These shall be elected for a period of time of two years; the others shall only be members.  
  
One Executive Director or Deputy Regulating Officer appointed by the Secretary, who shall preside the Board, two (2) representatives of the Hay producers, two (2) representatives of the Haylage producers, two (2) representatives of the Silage producers, and two (2) representatives of the green chop producers
9. The members of the Board shall receive no remuneration or compensation whatsoever for discharging their duties.
10. The quorum shall be constituted by the absolute majority of the members of the Board
11. The Board may Appoint and contract with charges to the Fund the personnel needed to comply with the purposes of this Act, without subjection to Act No. 5 of October 14, 1975, as amended, and may contract for the purchase and sale of goods and services, without subjection to Act No. 96 of June 29, 1954, being governed in the exercise of their functions for the commercial practices of the private industry.

12. When any Director wishes to resign to his representation, he shall submit his resignation before the Board.
13. When any Director does not complies with the Acts and Regulations applicable to the Industry, this action shall be considered as a cause for the withdrawal of his position.
14. The requirements to be certified as a Forage Producer shall be the following:
  - a. Bona-fide farmer as Forage Producer evidenced by a certification issued by the Department.
  - b. Possess legal tenancy of the farm or property he operates.
  - c. Comply with the requirements of quality established by the Administrative Board for the various types of forage produced.

## **SECTION X – LICENSES OR CERTIFICATIONS**

For the purposes of establishing an updated registry of the producers engaged in any way to the production of Forage with commercial fines, as well as the processing and distribution of local or imported Forage, the Board shall issue a license or certification naming them. Licenses or Certifications shall expire two years after its issuance, and shall require the payment of fifty (\$50) dollars and shall be subject to renewal after determining that the applicant has comply with the applicable Acts and Regulations and with the requirements of license established by the Deputy Regulating Officer to such fines, with prior authorization of the Board.

The Deputy Regulating Officer shall take into consideration that the different components at the moment of the issuing or renewal of the license are updated with the contributions to the Fund. In addition, the Deputy Regulating Officer may recommend to the Secretary to forbid any member of the Sector from the benefits granted by Act No. 225 of Bona-fide Farmers; if him does not comply with the provisions of this Section or any other Section of this Regulation.

Prior to the final determination of rejection, renewal, revocation, suspension or cancellation of any license, the Deputy Regulating Officer shall call for a hearing before him or his agent with absolute protection of the constitutional rights of the affected person and subject to the procedures established to such effects by this Regulation,

pursuant to the “Uniform Administrative Procedures Act” (Act No. 170 of August 12, 1988, as amended.)

#### **SECTION XI – COLLECTION OF CONTRIBUTIONS**

The Deputy Regulating Officer of the Office shall establish, in consultation with the Board by Regulations, the mechanisms needed for the adequate management of the collection process to support the Fund.

#### **SECTION XII – INJUNCTIONS**

1. When Deputy Regulating Officer, with prior investigation to such effect, has reasonable motives to believe that determined natural or juridical person has infringe or is infringing any provision of Act 238, this Regulation or other regulations promulgated thereunder, he may request under his name the issue of the appropriate injunction resource before the corresponding Court, which shall be in force until the final adjudication of Deputy Regulating Officer has take place.
2. Any provisional injunction order will be issued without previous notification unless that a petition declaring that it can cause irreparable harm to the public interest.
3. It is hereby prohibited the issuing of injunctions to stop the application of the provisions of Act No. 238, this regulation and the regulations approved according to them.

#### **SECTION XIII- ADMINISTRATIVE FINES**

Prior calling the corresponding Administrative Hearing, with absolute protection of the affected person’s constitutional rights and subject to the procedures that are established by the Act No. 170 previously quoted, it is provided that any person who violates the provisions of this Regulation may be penalized by an administrative fine of two thousand and five hundred dollars (\$2,500.00) for the first violation. For every subsequent violation said person shall be penalized by a fine, which shall not exceed five thousand dollars (\$5,000.00).

#### **SECTION XIV – PENALTIES**

1. Any person who violates the provisions of this Regulation may be prevented from participating in the incentive and subsidy programs for the Forage Industry for a period of time that shall determine the Regulating Board.
2. Prior to the imposition of the penalties hereinabove described, the Deputy Regulating Officer and the Board shall call a hearing before him or his agent, with absolute protection of the affected person's constitutional rights and subject to the procedures that are established by Act No. 170 for such effects.
3. This Regulation shall be freely interpreted in favor of the authority of the Deputy Regulating Officer and the Board in order to develop the Forage Industry, to enforce the public policy.
4. The Deputy Regulating Officer may promulgate and adopt plans and measures necessary to confront the variations and changing conditions of the Industry, with the purpose of protecting the general interest and the public policy.

#### **SECTION XV – ANNUAL REPORT**

The Board, in agreement with the Deputy Regulating Officer, shall submit a report on their activities during the preceding natural year, including information, data recommendations related to matters addressed under the Act No. 238.

#### **SECTION XVI – SANITATION LAWS IN EFFECT**

1. None of the provisions of this Regulation or any regulations approved thereunder shall have the effect of repealing or amending any sanitation laws that regulate the Forage Industry of Puerto Rico.
2. Nevertheless, Deputy Regulating Officer, prior consultation and approval of the Board, may promulgate and adopt bylaws needed to establish additional requirements of sanitation nature; additional to the ones in force, pursuant to the powers vested by Act No. 238 and this Regulation. In the promulgation of every regulation, in addition to what is being established,

#### **SECTION XVII – REASSIGNMENT OF RELATED PROGRAMS**

Once the Secretary deems is appropriate, with prior approval of the Sector, all programs related to the Forage Industry and its corresponding budget appropriations shall be transferred to the Fund by the Secretary through an agreement to such effects.

**SECTION XVIII – AMENDMENTS**

This Regulation may be amended by the Secretary, with prior consideration of the amendment in any ordinary or extraordinary meeting of the Forage Industry to such effects, approved by 2/3 parts of the total of the members qualify to vote. These amendments shall be sent or delivered in person to all members of the Industry with no less than ten (10) days prior to the meeting.

**SECTION XIX – SEPARABILITY CLAUSES**

If any provision of this Regulation is declared invalid, null, such declaration shall not affect the remaining provisions of this Regulation or its application.

**SECTION XX – EFFECTIVENESS**

This Regulation and any amendment to the same shall take effect as soon as it is approved by the Secretary of the Department of State once filed and signed by the Secretary of Agriculture.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2002 in San Juan, Puerto Rico.

**LUIS RIVERO CUBANO  
SECRETARY OF AGRICULTURE**