

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

**REGULATION NO. 1 OF THE OFFICE FOR REGULATING AND PROMOTING  
THE ROOT VEGETABLES INDUSTRY OF PUERTO RICO AND TO REPEAL  
REGULATION NO. 5811, APPROVED ON JUNE 11,1998**

**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 Agriculture and 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 Regulating and Promoting the Root Vegetables Industry was created with the main purpose of promoting activities, programs and services, which foster the development of the Root Vegetables Industry of Puerto Rico.

On the other hand, Act No. 238 of September 18, 1996, in order to foster the development and welfare of the Root Vegetables 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 Root Vegetables 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 sector more efficient and productive.

### SECTION III – Definitions

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

1. Collections Center – Physical facilities for the collection, classification, wash, inspection, packing and distribution of Root Vegetables Products.
2. Department – The Department of Agriculture of Puerto Rico.
3. Exportation – Sale of root vegetables and its by-products elaborated or near-elaborated to other countries.
4. Fund - Fund for the Development of the Root Vegetables Industry.
5. Root Vegetables: Should be considered root vegetables for the purposes of this regulation the following plantations: pepper, bonnet pepper, tomato, bell pepper, squash, onion, watermelon, cantaloupe, Honey Dew Melon cucumber, cabbage, garlic, coriander, *recao*, broccoli, lettuce, eggplant, asparagus, corn, okra, carrots, green beans and any other cultivation that the Administrative Board deems shall be included.
6. Importation: The purchase of root vegetables or its by-products elaborated or near elaborated from other countries.
7. Industry: Means the Root Vegetables Industry of Puerto Rico, everything related to the production, classification, packing, elaboration, transportation, distribution, storage and purchase and sale of the products within the Root Vegetables line, including imported root vegetables and any other activity thus determined by the Administrative Board.
8. Board: Administrative Board of the Root Vegetables Sector.
9. Act 238: Act No. 238 of September 18, 1996, also known as “Act to create the Puerto Rico Agriculture and Livestock Industry Regulating Office”.
10. License: Certification of root vegetables commercial producer issued by the Administrative Board.
11. Marketing: Means the ownership, sale or offering for sale at any level, transfer, donation, transportation, storage, processing or handling of root vegetables produced in Puerto Rico.
12. Center: Group of certified farmers producers of root vegetables

13. Office: Office for Regulating and Promoting the Root Vegetables Industry of Puerto Rico.
14. Regulating Officer: Means the official designated by the Secretary of Agriculture to develop the regulation of the agriculture livestock industry.
15. Producer: Any person who owns, manages or is in charge of farms of root vegetables production
16. Secretary: the Secretary of the Department of Agriculture of Puerto Rico or his authorized representative.
17. Sector: Group of persons devoted to a similar activity within the agriculture and livestock industry such as producers, processors and manufacturers, etc.
18. Deputy Regulating Officer: Official designated by the Secretary to preside over the business of the Administrative Board and who shall also hold the position of the Director of the Office pursuant to Act No. 238.

#### **SECTION IV – Office for the Regulation and Promotion of the Root Vegetables Industry.**

1. The Office for the Regulation and Promotion of the Root Vegetables of Puerto Rico is created in the Department of Agriculture, and shall have among other functions provided by Law and this Regulation, the responsibility to adopt and to enforce programs and measures geared to foster the development of a prosperous Root Vegetables Industry, as well as to solve, and organize the various situations or problems related to the production, manufacturing, promotion, distribution importation, exportation and sale of root vegetables.
2. The Office for Regulating and Promoting the Root Vegetables shall be attached to the Office for Regulating the Agricultural and Livestock Industry, whose operation shall be financed with charges to the resources provided in the consolidated budget of the Department of Agriculture, as well as from the Fund for the Development of the Root Vegetables Industry of Puerto Rico, subject to the provisions to such purposes on Act No. 238 and this regulation.

#### **SECTION V – Deputy Regulating Officer**

1. The Secretary shall appoint a Deputy Regulating Officer, which shall be an agronomist and shall direct and administrate the Office for the Regulation and Promotion of the Root Vegetables Industry. The Secretary shall fix the salary or remuneration of the

agronomist according to the norms usually followed by the Department for positions of equal or similar nature or with the same level of responsibility.

2. The Deputy Regulating Officer shall discharge his office at the will of the Secretary and the Board and shall be a person of acknowledged competency and experience in fields such as: production, processing and marketing. The Deputy Regulating Officer shall be qualified as Director of Agricultural Programs and shall preside over the business of the Administrative Board hereinafter described and in which shall have voice and vote only when there exist disagreements between the parties and it is necessary to resolve a matter in dispute.

#### **SECTION VI –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- To coordinate the regulations of the Root Vegetables Industry of Puerto Rico and shall order, promote and provide the development of the Industry, emphasizing the marketing of its products.
- 2- To develop promotional, research, publicity and orientation program and projects for the consumer and the Root Vegetables Industry with prior consultation and approval of the Board.
- 3- To foster greater participation of the root vegetable producers of Puerto Rico on governmental decisions with respect to the production and marketing within this line.
- 4- To enforce the public policy established by the laws and regulations under his management, with prior consultation and approval of the Administrative Board.
- 5- To establish a registry of producers, manufacturers any other component within the sector.
- 6- To carry out 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 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 enforce the Law and any other laws, regulations and programs under his 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.  
  
No person with a substantial financial interest, directly or indirectly in any business or activity related to the Root Vegetables Industry shall hold a position in the Office. Officers 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- To 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, The Office of the Controller of Puerto Rico and the Office of Government Ethics of Puerto Rico.
- 10- To 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 root vegetables produced in Puerto Rico.

- 12- Shall establish norms of classification, packing, containing, labeling, quality and presentation of the root vegetables in agreement to 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 sale of root vegetables of Puerto Rico and imported, and its by-products to the consumer.

#### **SECTION VII – Investigative Powers of the Deputy Regulating Officer**

1. In the performance of the duties imposed by Act No. 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 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 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 of Act No. 238, this Regulation and the Regulations promulgated thereunder.

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 VIII - Norms**

1. The Deputy Regulating Officer may order, in agreement with the Administrative Board the various phases of the Root Vegetables Industry subject to the provisions Act No. 238 and this one or any other regulation promulgated whenever it is necessary to enforce the public policy and the purposes of said Act.
2. In the determination of the limits of the regulations of the Industry, the Deputy Regulating Officer shall take into account the interests and needs of the various sectors within the industry represented in the Board, in a way that any adopted measure provides stability and stimulates the progress in the production and marketing of the vegetables.
3. The Deputy Regulating Officer shall require persons who operate businesses within the Vegetables 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 IX – Centers**

1. Production and distribution Centers of the Root Vegetables Industry shall be created.
2. Each Center shall choose its own Board of Directors, which shall be organized in a non-lucrative corporation and shall be empowered to approve their own regulations.

3. In order to belong to a Center, the farmer shall be duly certified by the Board and shall pay the corresponding contributions as a root vegetables producer.
4. The Centers shall generate the sowing plans required by the Industry and production, and thus it shall collect, classify and market their plantations in a collective manner.
5. It shall elect two directors who shall represent them in the Administrative Board of the Root Vegetables Industry.
6. Each Center may appoint the personnel to comply with the purposes of this Regulation, without being subject to Act No. 5 of October 14, 1975, as amended; it may also contract for the purchase and sale of goods and services without being subject to Act No. 196 of August 4, 1979, as amended, but shall be governed by the standard business procedures of the private industrial sector in the performance of its functions.

**SECTION X – Fund for the Development of the Root Vegetables Industry of Puerto Rico**

1. The Fund for the Development of the Root Vegetables Industry of Puerto Rico is created through Act No. 238, to be used for the promotion of the production, sale, manufacture and consumption of Puerto Rico's root vegetables and for taking any other necessary steps for the progress of said Industry. The fund shall be administered by an Administrative Board herein below described. Contributions to the Fund shall become payable thirty (30) days after the effective date of this Regulation.
2. The Fund shall be nourished by contributions of the producers at a rate the total amount of the contributions as determined by the Administrative Board, after a consultation with its components as well as any other economic source proposed by its members.
3. 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 pre-audited by the Secretary of the Treasury.

## **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 quarterly 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 XI – Administrative Board of the Root Vegetables Sector**

- 1. The Administrative Board of the of the Root Vegetables Industry Sector is hereby created, the which in addition to administer the Fund, pursuant to the public policy of the Government, shall have the power to regulate and arrange all phases of the Root Vegetables Industry of Puerto Rico in matters of production, manufacture, processing, storage, purchase and sale, marketing,

transportation, distribution, importation and exportation. It is also empowered to approve its own regulations and establish those internal procedures that are necessary for its proper operation.

2. The Board shall be composed by ten (10) producers two (2) per each one of the five (5) centers with not less than three (3) years of experience, and one Deputy Regulating Officer in such sector. The representatives of the producers shall be elected by calling an assembly of the different production centers summoned by the Deputy Regulating Officer.
3. The members of the Board shall occupy their positions until their successors are appointed in the Annual Assembly by the members of the promotion centers. No member shall serve as such for more than two (2) consecutive terms, excepting the Deputy Regulating Officer. Provided that, for the first Board fifty (50%) percent of the members shall be elected for a term of one (1) year for the gradual lapsing of their membership on the Board.
4. Board members shall receive no remuneration or compensation whatsoever for discharging their duties.
5. The Board may appoint personnel in order to comply with the purposes of this Act, without being subject to Act No. 5 of October 14, 1975, as amended; may contract for the purchase and sale of goods and services without being subject to Act No. 96 of June 29, 1954, but shall be governed by the standard business procedures of the private industrial sector in the performance of its functions.
6. When any director wishes to terminate his representation, he shall submit his resignation in writing before the Board.
7. When any director fails to comply with the laws and/or regulations applicable to the Industry, such action shall be considered cause for dismissal of his position, it shall be determined by the Board.
8. Those vacancies that arise in the Board shall be filled with representatives of the corresponding center in agreement with the applicable laws and/or regulations.

## **SECTION XII – Licenses or Certifications**

For the purposes of establishing an updated registry of the producers engaged in any way to the production of Root Vegetables with commercial fines, as well as the elaboration, processing and distribution of local or imported Root Vegetables by-products, the Board shall issue a license or certification naming them. Licenses or Certifications shall expire two years after its issuance, 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 December 1, 1995, as amended, known Agriculture Tax Incentives; if him fails to 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 purposes by this Regulation, pursuant to the “Uniform Administrative Procedures Act” (Act No. 170 of August 12, 1988, as amended.)

## **SECTION XIII – 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 nourish the Fund.

## **SECTION XIV – 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 No. 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. No provisional injunction order will be issued without previous notification unless that a petition declaring that it can cause irreparable harm to the public interest.

#### **SECTION XV- 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 XVI – Penalties**

1. Any person who violates the provisions of this Regulation may be prevented from participating in the incentive and subsidy programs applicable to the Root Vegetables Industry of Act No. 225 of December 1, 1995, as amended, known as “Agricultural Incentives Tax Act of Puerto Rico”. In addition the Board may impose him a fine of not less than two hundred (\$200.00) dollars, nor higher than ten thousand (\$10,000) dollars per violation.
2. Prior to the imposition of the penalties hereinabove described, the Deputy Regulating Officer shall hold 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 the aforesaid Act No. 170.
3. This Regulation shall be freely interpreted in favor of the authority of the Deputy Regulating Officer to promote a responsible development of the Root Vegetables Industry of Puerto Rico with the purpose to enforce the public policy and the purposes of its sections.
4. To such purposes, the Deputy Regulating Officer may, promulgate and adopt programs and measures needed to face the variations and changing conditions of the Industry, with the purpose of protecting the general interest and the public policy.

## **SECTION XVII – Annual Report**

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

## **SECTION XVIII – Sanitation Laws in effect**

1. None of the provisions of this Regulation or any regulations approved hereunder shall have the effect of repealing or amending implicitly any laws of sanitary nature, which regulate the Root Vegetables Industry.
2. Nevertheless, the Deputy Regulating Officer, with prior consultation and approval of the Board, may promulgate and adopt those regulations needed to establish additional requirements of sanitation nature; additional to those currently in force, according to the powers vested by Act No. 238 and this Regulation. In the promulgation of all regulations in addition to those already established, it shall be take into consideration that the same is in agreement with the applicable federal and state laws.

## **SECTION XIX – Reassignment of Related Programs**

All programs related to the Root Vegetables Industry and its corresponding budget assignments shall be transferred by the Secretary to the Fund by agreement to such purposes.

## **SECTION XX – Quorum of the Assembly**

Thirty (30%) percent of the present active members with right to vote, shall constitute quorum at any ordinary or extraordinary Assembly.

## **SECTION XXI – Amendments**

This Regulation may be amended at any ordinary or extraordinary assembly called to such purposes, and approved by 2/3 parts of the present members. The amendment shall be personally rendered to all the members within at least ten (10) days prior.

## **SECTION XXII – Separability**

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 XXIII – Repeal**

This Regulation hereby repeals Regulation No. 5811 of the Office for the Regulation and Promotion of the Root Vegetables Industry of Puerto Rico, approved on June 11, 1998.

**SECTION XXIV– Effectiveness**

This Regulation shall take effect immediately the same is approved by the Secretary of the Department of State once filed and signed by the Secretary of Agriculture.

Approved in San Juan, Puerto Rico on \_\_\_\_\_, 2003.

**LUIS RIVERO CUBANO**  
**SECRETARY OF AGRICULTURE**

