

FARM INDUSTRY REVIEW BOARD

Annual Performance Report

Fiscal Year 2014-15



Chairperson's Message

On behalf of the Farm Industry Review Board, I am pleased to present this annual performance report for the 2014-2015 fiscal year to the Honourable Vaughn Granter, MHA, Minister responsible for the Forestry and Agrifoods Agency, Government of Newfoundland and Labrador.

The Farm Industry Review Board is classified as a Category 3 entity, and is required, under the reporting component of the *Transparency and Accountability Act*, to submit annual performance reports to the minister responsible, on its success in achieving the objectives, measures and indicators as outlined in its multi-year performance based activity plan. As such, this report outlines the accomplishments of the Board from April 1, 2014 to March 31, 2015 with regard to its responsibilities under both the *Natural Products Marketing Act* and the *Farm Practices Protection Act*. The Board participated in the preparation and approval of this report, and is accountable for the results herein.

This past year saw significant staff and Board re-structuring, with the hiring of a new Board Manager and appointments of several new members, resulting in a Board complement which consists primarily of new members. The new arrangement has been working to become apprised of the issues facing commodity boards and to effectively support these groups and its other stakeholders. I am pleased with the achievements of the Board thus far, and look forward to a successful term with these members.

As Chair of the Farm Industry Review Board, I am delighted to submit this annual report.

Respectfully submitted,



Rita Legge
Chairperson

Table of Contents

- 1 Government Entity Overview
 - 1.1 Key Statistics
 - 1.2 Mandate
 - 1.3 Lines of Business
 - 1.4 Primary Clients
 - 1.5 Values
 - 1.6 Vision
 - 1.7 Mission

- 2 Shared Commitments

- 3 Results of Objectives
 - Issue 1: Supervision and Control of Commodity Boards
 - Issue 2: Monitoring and Support of Provincial Supply Management System
 - Issue 3: Dispute Resolution and other Supports/Services for Stakeholders

- 4 Opportunities and Challenges

- Appendix A: Financial Statements

- Appendix B: Legislated Mandate

1 Government Entity Overview

The Farm Industry Review Board (FIRB, the Board) is responsible for the general supervision of the operations of the three Provincial supply-managed commodity boards (Chicken Farmers of NL, Dairy Farmers of NL and Egg Farmers of NL), and also for reviewing agriculture-related nuisance cases.

The *Natural Products Marketing Act* requires that the Farm Industry Review Board shall consist of not less than five and not more than seven members appointed by the Lieutenant-Governor in Council, one of whom shall be nominated by the Newfoundland and Labrador Federation of Agriculture (NLFA). The Board reports directly to the Minister responsible for the Forestry and Agrifoods Agency. Members of the Board are appointed for a three year term and are eligible for reappointment. The Board is supported by one permanent government employee, the Board Manager, whose position is located at agriculture headquarters in Corner Brook.

The Board is currently comprised of six members, which is supported by a Board Manager. Representation as of March 31, 2015 is as follows:

Ms. Rita Legge

Chairperson
Cartyville

Ms. Elaine Wells

NLFA Representative
Robinsons

Mr. Kevin Harte

Member
Goulds

Mr. Donald MacInnis

Member
Corner Brook

Mr. Paul Lomond

Member
Steady Brook

Mr. Roosevelt Thompson

Member
Point Leamington

Ms. Heather Randell

Manager
Corner Brook

A total of \$152,800 was allocated in the 2014-15 budget of the Forestry and Agrifoods Agency, for the carrying out of all activities of the Board. Actual expenditures were \$78,000. See **Appendix A** for the complete categorization of expenditures.

1.1 Key Statistics

Provincial farms reported farm cash receipts of \$124 million for 2014, a value that is down 10% from 2013 numbers. This decrease reflects lower livestock receipts. Livestock and livestock products, which accounted for about 86% of total receipts, were down by 10.7% to \$106 million, with the lower prices at auction for fur being the major contributing factor to the decline. Farm cash receipts for chicken farming are not available due to confidentiality restrictions, but data from the Chicken Farmers of Canada indicates that the volume of chicken produced in the Province in 2014 totaled 14.2 million kilograms, up 2.5% from 2013. Farm cash receipts for dairy and eggs were \$46 million and \$17 million respectively. The three supply-managed commodities (dairy, chicken and eggs), are the top three farm cash receipts generators of all the agricultural commodities, covering 74% of total cash receipts for 2014. This highlights the importance of supply management to this province's agriculture industry.

Contact Information:

For information about the Farm Industry Review Board and its work, the regulated marketing system in Newfoundland and Labrador, the commodity boards, or about farm practices dispute resolution, please contact us at:

Farm Industry Review Board
P.O. Box 2006
2nd Floor Fortis Building
Corner Brook, NL A2H 6J8

Tel: 637-2672
Fax: 637-2365

1.2 Mandate:

The Newfoundland and Labrador Farm Industry Review Board is an administrative tribunal, established under Provincial Government legislation to supervise commodity boards operating in the agriculture sectors. In addition, the Board is empowered to review agriculture-related nuisance cases, and determine whether a farm is operating according to acceptable farm practices. The Board is accountable to Government for its administrative operations, but is independent of Government in its decision-making. As an independent tribunal, the Board ensures that the public interest is served and protected. The mandate of the board is set out in two statutes¹:

1. The *Natural Products Marketing Act*
2. The *Farm Practices Protection (Right to Farm) Act*

Under the *Natural Products Marketing Act*:

The Board is responsible for general supervision of the operations of commodity boards created under the Act, with the power to control and direct their operations; hearing appeals filed by any person who is aggrieved by or dissatisfied with orders, decisions or determination of the commodity boards; and acting as a signatory to federal-provincial agreements for supply-managed commodities.

Under the *Farm Practices Protection Act*:

The Board is responsible for hearing complaints from persons aggrieved by odour, noise, dust or other disturbances arising from agriculture operations, and may also study and report generally on farm practices.

1.3 Lines of Business:

The Farm Industry Review Board is responsible for four lines of business relevant to its mandate. These roles are listed below.

Supervisory Role

Today, there are three commodity boards administering three separate marketing schemes:

- Egg Farmers of Newfoundland and Labrador

¹ Please refer to **Appendix B** to view the legislated mandate for the Farm Industry Review Board in its entirety.

- Chicken Farmers of Newfoundland and Labrador
- Dairy Farmers of Newfoundland and Labrador

The Board meets regularly with each of the commodity boards to discuss existing and emerging issues in the administration of the marketing schemes and to examine the policies and orders of the commodity boards to ensure they fall within statutory authority and do not unfairly impact individual producers or sectors of the industry. The Board may amend, vary or cancel the orders of a commodity board. The Board may also review issues related to the administration of a marketing scheme or the regulated marketing system, exercise authority to correct irregularities in the composition or operations of a commodity board or take action to ensure compliance with the *Natural Products Marketing Act* and the marketing schemes. The Board can administer schemes in respect of which no commodity board is constituted under the *Natural Products Marketing Act*.

The Board's supervisory role also includes the registration of farmers within the Province. The Board is responsible for registering all producers every 3 years and maintaining contact information. New farmers are added as they enter the industry and are issued an identification number. This number is required by the Department of Finance for the administration of the rebate programs.

Appellate Role

As a quasi-judicial appeal body, the Board is empowered to hear appeals from any person who is aggrieved by or dissatisfied by an order, decision or determination of a commodity board in Newfoundland and Labrador. The Board uses various forms of dispute resolution processes to assist the parties to resolve issues by agreement. If dispute resolution is not used or is unsuccessful, a hearing is convened. After hearing an appeal, the Board may dismiss the appeal, confirm or vary the order, decision or determination being appealed, return the matter to the commodity board for reconsideration or make another order the Board considers appropriate in the circumstances.

The Board is also empowered to hear complaints from any person aggrieved by odour, noise, dust or other disturbances arising from farm operations. If DR is not used or is unsuccessful, a hearing is convened, after which, the Board must dismiss the complaint if the farm operation is determined to be following normal farm practices; or order the farmer to cease or modify his or her practices if the farm operation is not following normal farm practice.

Where possible, the Board promotes dispute resolution to provide all parties with impartial and fair resolutions to disputes, without the need for formal panel hearings. For farmers, neighbours, local governments, and the public, the Board is an impartial body that can determine whether a farmer follows "normal farm practices."

The Board adheres to the principles of natural justice and administrative law in this quasi-judicial role. Decisions may be appealed only to the Supreme Court of Newfoundland and Labrador, and only on a question of law or jurisdiction.

Signatory Role

The Board, the Minister of Natural Resources, the Minister of Municipal and Intergovernmental Affairs and the supply-managed commodity boards are the Newfoundland and Labrador signatories to agreements with the Federal Minister, other provincial and territorial ministers, and supervisory and commodity boards in Canada (federal-provincial agreements). These agreements provide for the cooperative use of federal and provincial legislation in managing the production and marketing of eggs, chicken and milk in Canada.

1.4 Primary Clients:

The Farm Industry Review Board identifies its primary clients as those individuals, groups, or organizations who are the principal users and/or beneficiaries of the Board's lines of business, and include the following:

- Commodity boards and their members
- Other producing/processing farming groups
- Farmers
- Members of the general public who are aggrieved by odor, noise, dust or other disturbances arising from farm operations
- Members of the general public who are aggrieved by or dissatisfied by an order, decision or determination of a commodity board
- Members of the general public who are interested in obtaining information about the farming industry

1.5 Values:

The Farm Industry Review Board values a working environment of mutual respect, accountability and fiscal responsibility. In exercising its mandate, the Board will be guided by the following principles: proactive, flexible and cooperative leadership, open and transparent consultation, accessible and efficient practices and services, independent, impartial, timely and consistent dispute resolution and decision making, and an ongoing professional development of members and staff. As outlined in its 2011- 2014 Activity Plan, the Board performed its duties during the year within the following core values:

Values	Action Statements
---------------	--------------------------

Responsiveness	Every effort is made by the Board to ensure that client requests are processed in a timely manner as identified in the Acts
Communication	Clients and stakeholders are kept informed of the services provided by the Board
Transparency	The Board will operate in an open manner such that relevant information is readily available to clients and stakeholders
Learning Culture	We operate in a continuous learning environment and accept the opportunity to learn more to assist in the work that we do
Professionalism	The Board is committed to conducting business with fairness, courtesy and respect. The Board will endeavour to always foster an internal culture based on competence, objectivity and excellence

1.6 Vision:

The vision of the Farm Industry Review Board of a regulated marketing system which operates effectively in a sustainable farming environment that is cognizant of the interests of the public and the industry.

1.7 Mission:

The Farm Industry Review Board is committed to promoting a constructive and timely exchange of views between industry stakeholders to foster a supply management system based on cooperation and reflective of the spirit upon which it was created. In carrying out its duties, the Board is committed to conducting Board business with fairness, courtesy and respect, be it with stakeholders or the general public. The work that the Board will undertake towards achieving its mission will help advance the strategic direction of the Provincial Government in the area of agriculture/agrifoods by supporting resource sustainability.

Mission: By March 31, 2017, the Farm Industry Review Board will have enhanced the capacity of the board in carrying out its mandate.

Measure: Enhanced capacity

Indicators:

- Enhanced practices/procedures of information collection from commodity boards to support decision-making
- Continued to monitor industry sectors on provincial, national and international levels for emerging issues as well as opportunities for growth and /or modernization
- Increased collaboration with commodity boards
- Worked with commodity boards to ensure policies for new entrants are effective
- When required, conducted hearings and made decision on appeals, utilizing enhanced knowledge
- Enhanced governance and learning and development practices
- Enhanced responsiveness to stakeholders

2 Shared Commitments

The Farm Industry Review Board works in partnership with industry, government and national agencies to build on opportunities, address challenges and manage a system that provides fairness and balance to all stakeholders.

The Newfoundland and Labrador Federation of Agriculture (NLFA) represents all commodities in the agriculture industry in Newfoundland and Labrador by coordinating the efforts of producers for the purpose of promoting their common interest through collective action. Having a representative from the NLFA on the FIRB creates a direct link between industry and Government, and facilitates the exchange of information between the two.

As an entity under the Minister responsible for the Forestry and Agrifoods Agency, the FIRB deals directly with the Minister, parliamentary secretary, and senior officials within the Agency on various issues (e.g. commodity board updates, mandate, and legislation). In addition, the Board advises the Minister on all matters related to the operation of commodity boards established under the *Natural Products Marketing Act* with a view to ensure that all activities are carried out in accordance with existing legislation.

The FIRB is a member of the National Association of Agricultural Supervisory Agencies (NAASA). This agency was formed in 1997 with membership comprising of Farm Products Council of Canada, all Provincial/Territorial Supervisory Agencies and the Canadian Dairy Commission. NAASA members have adopted a set of supervisory principles that guide its members in the supervision of commodity boards and other agencies within their national and provincial jurisdictions. It provides provincial and federal governments with a forum to discuss issues pertaining to regional or national

matters and to build consensus on moving the industry forward in a regulatory framework that supports the needs of industry as a whole.

3 Results of Objectives

The following objectives, as put forward in the 2014-17 Activity Plan, guide the Board in achieving its mission and support strategic directions and focus areas of the Provincial Government as outlined in the Mission section above. These objectives, including the corresponding measures and indicators, are reported on each year covered by the 2014-17 Activity Plan, and support Government’s strategic direction to enhance resource sustainability in the agriculture and agrifoods sectors.

Issue 1: Supervision and Control of Commodity Boards

The main line of business for the Farm Industry Review Board involves supervision of the commodity boards. The most recent Auditor General’s report which conducted a review of both FIRB and the commodity boards suggested that the supervisory role of FIRB was not adequate. As a result, the FIRB has been making concerted efforts to improve and strengthen this role. The Board is committed to making this a leading priority in the future.

Objective: By March 31, 2015, the Farm Industry Review Board will have continued supervision/control of commodity boards and strengthened supervisory/control mechanisms, where appropriate.

Measure¹: Continued supervision/control of commodity boards and strengthened supervisory/control mechanisms, where appropriate.

INDICATORS	ACCOMPLISHMENTS 2014/15
Provide oversight of commodity board decisions and activities. Attend commodity board meetings and/or reviewed minutes; ensure boards adhere to planning, reporting and other regulatory requirements; review annual reports and financial statements etc.	The Farm Industry Review Board (FIRB) has attended all commodity board meetings thus strengthening the oversight role immensely. The Board also reviewed commodity board minutes and reports. Additional information has been gathered from commodity boards to allow for better oversight of Boards by FIRB.
In collaboration with commodity boards, continue to review the legislative/regulatory	A review of the legislation for each commodity board has identified areas

framework governing FIRB and commodity board operations in the Province	for updates.
Begin drafting guidelines that provide enhanced clarity for commodity boards in terms of FIRB's role, responsibilities and authority with respect to commodity board operations and the supply management system in the Province	FIRB has drafted an outline of an information document which will break down the legislative mandate of FIRB for its members and stakeholders in "clear language".
Provide direction, feedback and other information, as appropriate, to commodity boards, as a means of providing support of overall commodity board operations	The FIRB Manager met with the three commodity board's staff members to introduce FIRB's new staff/Board complement and communicate the objectives of the FIRB going forward, and established a common understanding of the working relationship between the commodity boards and FIRB. A presentation describing the roles and responsibilities of the FIRB was created and presented to both the Chicken Farmers of NL and the Egg Farmers of NL at their AGM.

Issue 2: Monitoring and Support of Provincial Supply Management System

Under the *Natural Products Marketing Act*, the schemes for the supply-managed commodity boards form the basis for how the commodity groups will market their respective commodities. The Farm Industry Review Board is working to provide support and direction to the commodity groups implementing the schemes; this monitoring provides support and structure for supply management in this Province.

Objective: By March 31, 2015, the Farm Industry Review Board will have continued to monitor and provide support for the Provincial supply management system.

Measureⁱ: Continued to monitor and provide support for the Provincial supply management system.

INDICATORS	ACCOMPLISHMENTS 2014/15
As signatory to federal-provincial agreements, attended meetings of the National Association of Agricultural Supervisory Agencies and exchange information with federal, provincial and territorial supervisory boards regarding their respective marketing systems	The Manager of FIRB attended the 2015 NAASA meeting in Ottawa. At this meeting, the Manager engaged in formal discussions and updated all provincial partners and national agencies on industry status, challenges and opportunities. The Manager subsequently relayed to Board members and the Agency, the issues that were discussed.
Monitor issues and trends on provincial, national and international levels and facilitate information transfer among commodity boards, the Provincial Government, national supply management partners and other stakeholders, as appropriate	The FIRB Manager monitored national and provincial supply management activities through the NAASA meeting, and also through regular correspondence from national and provincial bodies which are part of the supply management system, including annual reports from other jurisdictions and industry-related information and updates. This information was disseminated, as appropriate, to Provincial Government, and the FIRB members at Board meetings keeping members well-informed of industry happenings.
Provide supports to commodity boards in addressing challenges associated with the supply management system, along with other industry-related issues (e.g. food traceability, animal care standards)	The FIRB drafted proposed legislative changes in consultation with each of the commodity boards and Legislative Counsel, including: <i>Egg Scheme and Egg Regulations, Milk Regulations, Consolidated Chicken Farmers of Newfoundland and Labrador Order, and On-Farm Food Safety Assurance Program Order</i> . These proposed changes were <i>Gazetted</i> by Legislative Counsel. These amendments have allowed the industries to address industry challenges, and keep pace with the ever-changing environment of supply management.

Issue 3: Dispute Resolution and other Supports/Services for Stakeholders

The Farm Industry Review Board provides support for both producers and the general public of the Province. One of the Board’s responsibilities includes hearing appeals of regulated marketing board orders, decisions and determinations (*Natural Products Marketing Act*), as well as hearing farm practices complaints from persons aggrieved by disturbances arising from agricultural operations (*Farm Practices Protection Act*). Aside from the supply-managed commodities, the Farm Industry Review Board supports all farm commodities through the administration of the *Farm Practices Protection Act*. Another service provided by the Farm Industry Review Board involves registering producers and maintenance of the farm registration system. Continuing these services in a manner that is effective continues to be a central activity of the Farm Industry Review Board.

Objective: By March 31, 2015, the Farm Industry Review Board will have continued to provide effective dispute resolution for farming-related issues along with other supports, as appropriate, for stakeholders.

Measureⁱ: Continued to provide effective dispute resolution for farming-related issues along with other supports, as appropriate, for stakeholders.

INDICATORS	ACCOMPLISHMENTS 2014/15
When required, review complaints/disputes and respond in a timely manner	The FIRB reviewed and responded to an informal complaint which was submitted regarding changes in policy by the Dairy Farmers of Newfoundland and Labrador. The FIRB also conducted an assessment of farm practices (under section 16 of the <i>Farm Practice Protection Act</i>) for a particular farm operation that is the subject of public dissatisfaction regarding agri-environmental farm practices.
Provide supports, as required, to farming groups not governed by commodity boards	FIRB was available to respond to any inquiries regarding the establishment of new marketing boards; however, no proposals were submitted during the 2014-15 fiscal year.
Continue to update the farm registration system as required	The registration system has been reviewed, issues have been identified, and recommendations have been made. The FIRB Manager continues to update/register farms according to the new system established during the previous fiscal year.

4 Opportunities and Challenges

Challenges

- Working with the commodity groups, the FIRB is currently reviewing all relevant legislation governing supply management in Newfoundland and Labrador. When this work is completed, the FIRB will be recommending appropriate regulatory changes to the Minister.

Opportunities

- FIRB recognizes the continued necessity of having better communication and collaboration with the commodity boards in order to properly carry out its mandate.
- Potential development of other developing commodity markets (e.g. fur, cranberry, vegetable)
- FIRB recognizes further opportunities for industry growth in light of the emerging issues surrounding food security.

The Board recognizes the challenges and opportunities within the industry and acknowledges the roles and responsibilities of the various stakeholders. The Board's commitment is to continue to work within its mandate and with all stakeholders to build a sustainable farming environment that is cognizant of the interests of the public and the industry.

Appendix A: Financial Statements

Expenditure and revenue figures included in this document are based on public information provided in the Estimates of the Program Expenditure and Revenue of the Consolidated Revenue Fund 2015-16.

	2014-15	
	Revised	Budget
3.2.02. Marketing Board	\$	\$
01. Salaries	52,400	87,400
02. Employee Benefits	-	300
03. Transportation and Communication	15,000	17,900
04. Supplies	1,000	2,200
05. Professional Services	9,000	45,000
06. Purchased Services	100	-
07. Property, Furnishings and Equipment	500	-

Appendix B: Legislated

Current Mandate (Source: *Natural Products Marketing Act*):

Powers and duties of board:

9. (1) The Board may, under the control and direction of the Minister, or concurrently with the Minister
- (a) purchase, lease or otherwise acquire in the name of the Crown, and sell, lease or otherwise dispose of on behalf of the Crown property, real or personal of every nature and kind, or interest in property, which is considered necessary, convenient or advisable for or incidental to the exercise of the powers, functions or duties conferred by this Act;
 - (b) co-operate with the Government of Canada or of a province of Canada or a department, agency, board, council, or body under the jurisdiction of the Parliament of Canada or the Legislature of a province of Canada in the manner and to the extent that may be necessary or desirable to market or promote, facilitate, control, regulate or prohibit the production or marketing of a natural product and to act conjointly with the government department agency, board, council or body;
 - (c) enter into an agreement with the governments, departments, agencies, boards, councils or bodies referred to in paragraph (b) for the purposes referred to there, including the agreements referred to in the *Farm Products Marketing Agencies Act (Canada)*;
 - (d) undertake, promote or recommend measures for the development, control and direction of the marketing of natural products in the province;
 - (e) collect, compile, analyze and record the statistical and other information relating to the marketing of natural products that may be useful;
 - (f) prepare and publish statistics, reports, records, bulletins, pamphlets, circulars and other means of distributing information and advice in relation to the marketing of natural products that may be useful;
 - (g) study, report on and advise upon the system and administration of the marketing of natural products;

- (h) foster, through scientific investigation and technology, knowledge of the marketing of natural products and of the means of dealing with conditions relating to the development, control and direction of them;
- (i) receive, from any source, lands, buildings, money or other property, by gift or trust for public use or for the use of the Board;
- (j) investigate the cost of producing, distributing and transporting natural products, prices, price spreads, trade practices, methods of financing, management, grading, policies and other matters relating to the marketing of natural products;
- (k) require persons engaged in the marketing of a natural product in an area designated by the board to register with the board their names, addresses and occupations and the quantity of the natural product marketed by them;
- (l) administer schemes in respect of which no commodity board is constituted under subsection 11(1);
- (m) do those acts and make those orders, regulations and directions that are necessary to enforce the observance and carrying out of this Act, the regulations or a scheme;
- (n) hear and determine appeals from a person engaged in the production or marketing of a regulated product arising out of a matter falling within the jurisdiction of a commodity board under the scheme concerning that regulated product, including the hearing and determination of appeals against
 - (i) the allocation of and refusal to allocate quotas for production or marketing a regulated product,
 - (ii) the cancellation or reduction of a quota, or a condition imposed upon the holder of a quota,
 - (iii) the issuing of licences and permits or the refusal to issue licences and permits, and
 - (iv) a matter or thing for which a right of appeal is prescribed in the regulations;

- (n.1) receive applications and make determinations with respect to those applications under Part II of the *Farm Practices Protection Act* ;
 - (n.2) conduct a study and prepare a report when required to do so under section 18 of the *Farm Practices Protection Act* ;
 - (o) regulate and control the production or marketing of natural products, and establish or designate an agency as a central marketing agency, for collection, assembly, distribution and marketing of a natural product; and
 - (p) exercise and discharge those other powers, functions and duties that the minister assigns to it.
- (2) The Minister may by order delegate to a commodity board those powers, functions and duties of the board, other than the powers contained in paragraphs (1)(k), (l) and (n) that may be considered necessary or desirable for the proper application and enforcement of a scheme under which a commodity board is constituted and may terminate the delegation of power.
 - (3) Orders of the Minister made under subsection (2) may be made with retroactive effect.
 - (4) The Board may require a commodity board to provide information relating to a matter governed by a scheme.
 - (5) A member of the Board has, in relation to the hearing and determination of a matter under Part II of the *Farm Practices Protection Act*, all the powers that are or may be conferred upon a commissioner under the *Public Inquiries Act*.

ⁱ Note that ‘measures’ were omitted in the 2014-17 Activity Plan for the Farm Industry Review Board, but are included in this Annual Report.