

FARM INDUSTRY REVIEW BOARD

ANNUAL PERFORMANCE REPORT

2012-2013

MESSAGE FROM THE CHAIR

The Farm Industry Review Board under the *Transparency and Accountability Act* is required each year to prepare and submit to the minister responsible an annual report on its activities for the preceding fiscal year.

The entire Board of Directors fully participated in the preparation, approval and are accountable for the results of the annual performance report for 2012-2013. This report outlines the activities of the Board from April 1, 2012 to March 31, 2013 in terms of its responsibilities associated with the general supervision of commodity boards operating within the supply management system, its responsibility with respect to the *Farm Practices Protection Act* and the maintenance of a Farmer Registration system.

On behalf of the Farm Industry Review Board, I am pleased to present the annual performance report for 2012-2013 to the Honourable Tom Marshall, Q.C., MHA, Minister of Natural Resources, Government of Newfoundland and Labrador.

Respectfully submitted,



Robert Aylward
Chairperson

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1.OVERVIEW

The *Natural Products Marketing Act* requires that the Farm Industry Review Board (the 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. The Farm Industry Review Board reports directly to the Minister of Natural Resources. 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.

The Board is responsible for general supervision of the operations of commodity boards created under that Act; 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.

Representation of the Board as of March 31, 2013 is as follows:

Mr. Robert Aylward
Chairperson
Kilbride

Vice-Chairperson
Vacant

Mr. Kevin Harte
Member
Goulds

Ms. Rita Legge
Member
Cartyville

NLFA representative
Robert Murphy
Brigus

The Board was created in May 2005 and the first membership (seven members) was appointed in November, 2005. A total of \$177,000 was allocated in the 2012/2013 budget of the Department of Natural Resources, Forestry and Agrifoods Agency, to operate all activities at the Board. Actual expenditures were \$98,241.

Key Statistics*:

Farm receipts for provincial farmers totalled \$104.8 million during the first three quarters of 2012, up 13.1% from the same period in 2011. Livestock and livestock products, which accounted for 86.3% of total receipts during this period, were up 14.0% to \$90.4 million. This increase was mainly driven by higher sales of fur and dairy products. Although farm receipts for chicken production are no longer published, data from the Chicken Farmers of Canada indicates that the volume of chicken produced in the province in 2012 totalled 13.9 million kilograms a 3.3% increase over 2011. Crop production receipts, overall, increased from \$13.0 million to \$13.3 million, again of 2.1%. The bulk of this gain was due to higher receipts for floriculture, nursery and sod producers.

These statistics outline the importance of the supply managed commodities to the agriculture and agri-food sector and to the overall economy of the province. It is imperative that the Farm Industry Review Board work with all stakeholders to support a supply managed system that is managed well to maintain a sustainable sector that is fair to producers, processors and consumers.

* Source: The Economy 2013, People and Prosperity, Department of Finance

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:

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1.1 Mandate:

The Newfoundland and Labrador Farm Industry Review Board is an administrative tribunal - a statutory appeal body with additional responsibilities for the general supervision of commodity boards operating in the agriculture sectors. Please refer to Appendix B to view the legislated mandate for the Farm Industry Review Board in its entirety.

The mandate of the Board is set out in 2 statutes:

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

Under the NPMA:

The Board is responsible for general supervision of the operations of commodity boards created under that Act; 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 FPPA:

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.

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.

1.2 Lines of Business:

The Board receives its mandate from two Acts, *the Natural Products Marketing Act and the Farm Practices Protection Act*. Based on legislative requirements, the Board has three lines of business.

Supervisory Role

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

- ❖ Egg Producers of Newfoundland and Labrador
- ❖ Chicken Farmers of Newfoundland and Labrador
- ❖ Dairy Farmers of Newfoundland and Labrador

The Board meets regularly with 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* (the NPMA) and the marketing schemes. The Board can administer schemes in respect of which no commodity board is constituted under the NPMA.

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 ("DR") processes to assist the parties to resolve issues by agreement. If DR 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 Intergovernmental and Aboriginal 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.

1.3 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
- ❖ Member 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.

1.4 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

1.5 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.

1.6 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 Minister's strategic directions by supporting the areas of; environmental management, industry support to strengthen global competitiveness, primary and secondary production and agrifoods resource management.

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 to manage a system that provides fairness and balance to all stakeholders:

- Department of Natural Resources

The Board consulted with Minister, parliamentary secretary, Chief Executive Officer of the Forestry and Agrifoods Agency, and Agrifoods Development Assistant Deputy Minister on various issues (e.g. commodity board updates, mandate, and legislation).

The Board advises the Department of Natural Resources 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.

- National Association of Agricultural Supervisory Agencies (NAASA)

Governance Principles (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.

The National Association of Agricultural Supervisory Agencies was formed in 1997. The membership is comprised of the National Farm Products Council, all Provincial/Territorial Supervisory Agencies and the Canadian Dairy Commission. NAASA 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.

- Federation of Agriculture

Exploration of opportunities between the Federation and the Farm Industry Review Board (e.g. registration system)

This work helped the Board to address its issue on farmer registration

Assist industry to explore opportunities to form associations as opposed to commodity board structures

3. RESULTS OF OBJECTIVES

The following objectives, as put forward in its 2011-2014 Activity Plan, guide the Board in achieving its mission and supports the strategic directions as outlined by the Minister in the areas of; environmental management, industry support to strengthen global competitiveness, primary and secondary production and agrifoods resources management. These objectives will be reported on each year covered by the activity plan.

Issue 1: Board Governance and Decision Making

It is of the utmost importance that Board decisions are credible and that commodity boards operate in a well-understood and transparent context. The Board is committed to reviewing and improving its governance and decision making process, ensuring that its decisions and directions are made in the balanced interests of all stakeholders.

Objective: The Farm Industry Review Board will have improved its governance and decision making processes.

Measure: Improved governance and decision making processes.

INDICATORS	ACCOMPLISHMENTS 2012/13
Identified opportunities for relevant learning and development for board members and participated in related initiatives.	Modules related to governance training were being developed at the Gardiner Centre they have been delayed beyond FIRB control. Members from all commodity boards, including the federation of agriculture will be invited to participate when training modules are developed.

<p>Continued to monitor industry sectors on provincial, national and international levels for emerging issues as well as opportunities for growth and/or modernization.</p>	<p>A representative participated in the NAASA via conference call and there was no representation at the National Agencies meeting due to scheduling conflicts in 2012. These meetings provide members with a forum to monitor national and provincial activities, to engage in formal discussions and to update all provincial partners and national agencies on industry status, challenges and opportunities.</p>
<p>Reviewed decision-making processes, identified areas for improvement and implemented improvements where possible.</p>	<p>In order for FIRB to improve decision making processes members felt that FIRB required more formal reporting from boards and needed to be in attendance at regular board meetings. FIRB held discussions with commodity boards in terms of ways and means to be more accountable and transparent. The overall goal was to have FIRB representation at all commodity board meetings and to have more consistent reporting practices in place. Reporting practices and participation by FIRB were improved with plans to continue and implement a consistency with all boards.</p>
<p>Reviewed Farm Registration System to identify opportunities for enhanced use of the information captured.</p>	<p>The Farm Registration System was reviewed and compared to other jurisdictions in Canada. Changes were made in the application form for the 2013-2016 registration period in order to enable FIRB to share some data with the NL Federation of Agriculture. The data will assist the Federation in gaining a better understanding on the number of farmers in the province, the amount of land in production and the diversity of the industry.</p>

Issue 2: Accessibility, Efficiency and Responsiveness of the Board

In order for the Farm Industry Review Board to achieve its mandate, the Board’s stakeholders must be aware of its role and must be able to access the support the Board is able to provide, when needed. Similarly, the Board must ensure that industry stakeholders have access to the information they need to contribute effectively to the management of the system overall and, more specifically, commodity board operations.

Objective: The Farm Industry Review Board will have improved the accessibility, efficiency and responsiveness of the board.

Measure: Improved accessibility, efficiency and responsiveness

INDICATORS	ACCOMPLISHMENTS 2012/13
<p>Distributed more comprehensive information about issues and trends in industry sectors- as they relate to the board’s mandate- to the Minister of Natural Resources, commodity boards and other stakeholder groups, as appropriate.</p>	<p>Apprised all stakeholders of issues and trends raised at the national level that were related to local industry sectors. This included reports to NAASA regarding provincial challenges and opportunities, detailed documents from national agencies and improved updates to departmental staff and the Executive on emerging issues through a weekly teleconference .</p>
<p>Continued to hear appeals and render decisions in a timely manner.</p>	<p>No formal appeals launched in 2012/13. FIRB has offered mediation services to the industry with the goal to resolve issues without the official appeal process. In 2012/13 the board participated in two mediation processes.</p>
<p>Increased support to commodity boards in the administration of pertinent legislation, regulations and policies.</p>	<p>FIRB increased support to all three commodity boards to assist them in addressing specific issues identified in the 2011 report from the Office of the Auditor General. FIRB agreed to follow up with executive staff in the department to ensure that these issues were resolved to meet legislative requirements.</p>

<p>Increased monitoring of needs/operations of farming groups not governed by commodity boards and provided appropriate oversight and support as required.</p>	<p>Attendance of FIRB members at the NL Federation of Agriculture annual general meeting in January of 2013 and at the NL Horticulture Producers annual general meeting in March of 2013. These meetings provided more focused networking opportunities for members to understand the challenges and opportunities across the entire industry, to monitor industry activities and trends and to offer advice where relevant to assist industry in meeting legislative requirements particularly as it relates to <i>the Farm Practices Protection Act</i>.</p>
<p>Improved information collection from commodity boards.</p>	<p>Discussions were held with the Dairy Farmers of NL and the Chicken Farmers of NL to move toward a model adopted by the Egg Producers of NL whereby FIRB representatives attend regular board meetings and are provided with complete information packages prior to the meetings. (agenda, minutes, copies of presentations). This represented a considerable improvement in communication and information sharing.</p>
<p>Increased participation in relevant industry conferences, trade shows and other events to help stay informed and stay connected to industry stakeholders.</p>	<p>FIRB has had discussions about providing all members with more exposure to industry conferences, trade shows and events.</p>

5. Opportunities and Challenges

Challenges

- Legislation governing supply management.
 - FIRB has expressed the need to review legislation to reflect changes in the industry and to address changes in federal/provincial agreements. The Department of Natural Resources has confirmed that it will assume the lead role on this issue.

Opportunities

- Participation in meetings with commodity groups
 - FIRB recognizes the need to have better communication and collaboration with existing commodity boards as well as with emerging sectors.
- Potential development of other developing commodity markets (e.g. fur, cranberry, vegetable)
 - FIRB has received requests for assistance from commodity groups outside of supply management and has offered advice on industry organization.
- Food security
 - 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 Report on Expenditures and Revenues of the Consolidated Revenue Fund for Fiscal Year Ended 31 March 2013.

	Actual	Estimates	
		Amended	Original
3.2.02 Marketing Board	\$	\$	\$
01. Salaries.....	81,992	86,700	86,700
02. Employee Benefits.....	-	300	300
03. Transportation and Communications.....	5500	17,800	17,800
04. Supplies.....	259	2,200	2,200
05. Professional Services.....	10,490	70,000	70,000
Total: Marketing Board	<u>98,241</u>	<u>177,000</u>	<u>177,000</u>

APPENDIX B: LEGISLATED MANDATE

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

Powers and Duties of Board:

- (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*.