

FARM INDUSTRY REVIEW BOARD

ANNUAL PERFORMANCE REPORT

2010-2011

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 2010-2011. This report outlines the activities of the Board from April 1, 2010 to March 31, 2011 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 2010-2011 to the Honourable Jerome Kennedy, Q.C., MHA, Minister of Natural Resources, Government of Newfoundland and Labrador.

Respectfully submitted,



Robert Aylward
Chairperson

TABLE OF CONTENTS

1.	1	Overview.....	1-2
	1.1.	Mandate.....	2-3
	1.2.	Lines of Business.....	3-4
	1.3.	Primary Clients.....	5
	1.4.	Values.....	5
	1.5.	Vision.....	6
	1.6.	Mission.....	6-8
2.		Shared Commitments.....	9
3.		Results of Objectives	10
	3.1.	Issue 1: Advising the Minister	10
	3.2.	Issue 2: Board Processes.....	11
4.		Opportunities and Challenges	12
5.		Appendix A: Financial Statements.....	13
7.		Appendix B: Legislated Mandate.....	14-16

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. Members of the Board are appointed for a three year term and are eligible for reappointment. The board is supported by one permanent employee, who is located in the Avalon region.

Representation of the Board as of March 31, 2011 is as follows:

Mr. Robert Aylward

Chairperson
Kilbride

Ms. Rita Legge

Member
Cartyville

Ms. Violet Parsons

Vice-Chairperson
Bloomfield, Bonavista Bay

NLFA representative

Robert Murphy
Brigus

Mr. Kevin Harte

Member
Goulds

Mr. Roger Churchill

Manager
St. John's

The Board was created in May 2005 and the first membership was appointed in November, 2005. A total of \$173,700 was allocated in the 2010/2011 budget of the Department of Natural Resources to operate all activities at the Board. Actual expenditures were \$104,961. The significant reduction is mainly attributed to a number of vacant positions and the fact that there were no formal appeals submitted to the Board.

Key Statistics*:

The estimated value of farm receipts increased by more than 8% to \$115.2 million in 2010, reflecting higher values for both crop and livestock production. Livestock and livestock products, which account for over 80% of farm receipts, were up almost 8% to \$94.1 million. According to published data, higher receipts for fur and egg production were important contributors to the livestock increase. Fur receipts, at \$7.1 million, were more than double the 2009 figure reflecting improved pricing and a rebound in the mink industry following disease-related challenges in recent years. Egg production receipts increased 6.0% to \$14.6 million. Although farm receipts for chicken production are no longer published, data from the Chicken Farmers of Canada indicate that the volume of chicken produced in the province increased 3.9% to 13.7 million kilograms in 2010. Dairy receipts were valued at \$44.5 million in 2010. According to the dairy industry, production was slightly higher than 2009. Crop production increased 8.7%, reaching \$20.4 million last year, as higher receipts for floriculture/nursery products and other vegetables more than offset lower potato receipts.

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 2011, 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 marketing 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 Farm Industry Review Board reports directly to the Minister of Natural Resources. 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 board to ensure they fall within the statutory authority of the board and do not unfairly impact individual producers or sectors of the industry. The Board may amend, vary or cancel the orders of a 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 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 2008- 2011 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

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 Board’s mission is as follows:

“By 2011, the Farm Industry Review Board will have enhanced its role in the farming industry”.

Measure: Enhanced Role

The Farm Industry Review Board through its legislative mandate strives to create an environment within the regulated agricultural and agri-food sectors that encourages stakeholders to focus their efforts on developing their industries. The Board achieved this by operating through its mandate to enable producers to operate and compete in an ever changing global environment, and to be compliant with Federal/Provincial agreements.

The Board reports to the Minister and is ultimately responsible to all stakeholders including producers, processors and consumers. To fulfill this responsibility it was important for the board to develop formal policy and procedures and to examine ways to improve service to all clients. The following indicators have been implemented over the 2007/2011 planning periods and have improved the Boards responsiveness to all stakeholders.

INDICATORS	ACCOMPLISHMENTS 2007/11
Conducted hearings (where required)	Complaints were resolved before reaching a formal appeal.
Improved decision-making processes in the areas of: Complaint resolution Appellant resolution	Formal appeal policy and procedures were developed and adopted in August 2008. These provide all stakeholders with a clear understanding of how appeals are received and managed including the decision making process.

<p>Provided dispute resolution strategies to resolve conflicts</p>	<p>Formal dispute resolution policy was developed and adopted in August 2008. This provides an opportunity for the appellant and respondent to come to a mutually agreeable resolution before proceeding to a lengthy and potentially costly formal appeal process.</p>
<p>Advised parties on the results of hearings</p>	<p>Parties were advised in a timely manner as per the FIRB appeal policy and procedures manual.</p>
<p>Improved support to the non-supply/demand markets</p>	<p>Meetings were held with the cranberry sector and the vegetable industry to discuss the benefits of industry organization and cooperation in terms of production and marketing efforts that could enhance long term sustainability of the respective sectors.</p>
<p>Advised Government on farming-related issues</p>	<p>The Board advised the Department of Natural Resources on provincial and national issues pertaining to supply managed commodities as issues evolved. These would include issues such as the inter-provincial movement of product, regulatory changes and issues arising out of federal/provincial meetings that pertain to this province.</p>
<p>Processed applications</p>	<p>Improved applications were sent out for the 2009-2012 round of Farm Registration. By March 31, 2011 in excess of 300 applications were processed and registered.</p>
<p>Assessed client needs</p>	<p>Meetings were held with the National Association of Agricultural Supervisory Agencies(NAASA), provincial commodity boards and national agencies to identify and discuss the industry issues facing client groups. Supply management is complex in that there are many different challenges and opportunities within each supply-managed commodity (chicken, eggs and dairy). These meetings were</p>

	<p>essential in terms of achieving fairness, balance and recognition of national, regional and provincial needs, all of which must be factored into national supply management agreements to which commodity groups across Canada are bound. Issues identified were wide ranging and included challenges associated with quota allocation amongst regions, food safety, changing market trends, transportation, cost of production, processing, animal welfare and emergency preparedness</p>
<p>Participated in trade shows</p>	<p>This activity has been a low priority of the Board since 2008. Given limited human resources at FIRB and the focus of these trade shows (industry awareness and promotion), it was determined that the respective commodity board's do a very good job representing their sectors and that FIRB (regulatory and supervisory role) should focus on areas that were more reflective of its mandate.</p>
<p>Improved farmer registration system</p>	<p>The 2009-2012 application was revised to be more efficient in terms of administration. In the past, applications were received by FIRB and regional agricultural representatives were contacted to confirm the information provided. Under the current system, the application goes directly to the agricultural representative for review and sign-off before being received at FIRB. A broad review has been completed of other systems in Canada and will be used in future discussions between industry and government.</p>

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
 - Consulted with Minister, parliamentary secretary, Chief Executive Officer, and Assistant Deputy Minister on various issues (e.g. commodity board updates, mandate, legislation ,financial)

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
 - Governance Principles
 - This work helped the Board address issue related to board processes

The National Association of Agricultural Supervisory Agencies (NAASA) 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. Beginning in 2008-2009, the Board actively participated in the development of Governance Principles to guide all NAASA members in response to changing societal priorities and a changing and increasingly complex marketplace. In the fall of 2009, these Governance Principles were finalized and adopted by all Provincial/Territorial Agencies.

- 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
 - Assisting smaller commodity sectors

The NL Federation of Agriculture have expressed interest in working with the Board on issues that would further strengthen the agrifoods industry and to provide support for

sectors operating outside of the supply managed environment. The Board has initiated a review of similar approaches in other provinces and will continue to explore these opportunities.

3. RESULTS OF OBJECTIVES

The Board considered the following objectives as put forward in the 2008-2011 activity plan:

Issue 1: Advising the Minister

The Board, under the control and direction of the Minister, or concurrently with the Minister may undertake, promote or recommend measures for the development, control and direction of the marketing of natural products in the province.

Objective: By March 31, 2011, the Farm Industry Review Board will have kept the Minister apprised of industry trends, changes and shifts at the provincial and national levels.

Measure: Kept Minister apprised.

INDICATORS	ACCOMPLISHMENTS 2010/11
Attendance at meetings of the provincial commodity boards.	Representatives attended AGM's of the Dairy Farmers of NL, Egg Producers of NL and the Chicken Farmers of NL.
Attendance at meetings of the National Association of Agricultural Supervisory Boards.	Representatives attended meetings of NAASA in September 2010 and March 2011.
Attendance at annual meetings of the National Feather Agencies (Canadian Egg Marketing Agency and Chicken Farmers of Canada).	Attended AGM's of the Egg Farmers of Canada and the Chicken Farmers of Canada in Ottawa, March 2011.
Participate in teleconference meetings with the National Association of Agricultural Supervisory Boards.	The Manager and Chair of FIRB participated in a number of teleconference calls with NAASA dealing with regional and national issues

Following attendance at these meetings the Minister was apprised of issues of concern through written correspondence from the Farm Industry Review Board.

Issue 2: Board Processes

The Board must have documented policies and procedures not only to assist the Board but also its clients in understanding board processes. These policies and procedures must be in compliance with government legislation.

Objective: By March 31, 2011, the Farm Industry Review Board will have initiated further processes to enhance Board policies and procedures.

Measure: Initiated further processes.

Current policy and procedures are under review in terms of effectiveness. The Farm Industry Review Board strives to improve in ways and means of providing service to all stakeholders.

INDICATORS	ACCOMPLISHMENTS 2010/11
Develop a formal communications policy.	Discussion on this issue continues in terms of internal and external communications. The development of formal policy has been delayed as Board members became aware that this policy would require broader consultation with Departmental communications staff and OCIO to conform with government policy and procedures. FIRB will implement a communication policy within the 2011-2012 fiscal year.
Develop a formal policy with respect to attendance at industry meetings	Formal policy was developed and adopted. Board representatives will rotate in terms of attendance at provincial commodity board AGM's and the NL Federation of Agriculture AGM. The Manager and the Chair will attend annual meetings of the National Feather Agencies.

5. Opportunities and Challenges

Challenges

- Legislation governing supply management.
 - FIRB has expressed the need to review outdated legislation to reflect changes in the industry and to address changes in federal/provincial agreements. The Department of Natural Resources will assume the lead role on this issue.
- Federal-Provincial Agreement for the egg industry
 - movement towards a new Federal- Provincial Agreement for the egg industry has been delayed by ongoing disputes primarily in western provinces. Recent developments indicate positive signals towards the beginning of renewed negotiations.

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.
- Farm Registration System
 - FIRB is reviewing systems in place in other Provinces and will be making recommendations to the Minister on potential improvements to the current system in Newfoundland and Labrador.

The Board recognizes many of 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 2011.

	<u>Actual</u>	Estimates	
		<u>Amended</u>	<u>Original</u>
3.2.02 Marketing Board	\$	\$	\$
01. Salaries.....	73,383	83,400	83,400
02. Employee Benefits.....	-	300	300
03. Transportation and Communications.....	14,191	17,800	17,800
04. Supplies.....	1,242	2,200	2,200
05. Professional Services.....	16,145	70,000	70,000
Total: Marketing Board	<u>104,961</u>		<u>173,700</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*.