

Farm Products Commission

Annual Report
2015–2016

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Annual Report 2015-2016**

Province of New Brunswick
PO Box 6000
Fredericton, NB E3B 5H1

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Transmittal letter

From the Chair to the Minister

October 31, 2016

Honourable Rick Doucet

Minister of Agriculture, Aquaculture and Fisheries

Province of New Brunswick

PO Box 6000

Fredericton, NB E3B 5H1

Sir:

On behalf of the New Brunswick Farm Products Commission, I have the honour to submit the Annual Report for the period April 1, 2015, to March 31, 2016.

Respectfully submitted,



Robert Shannon

Chair

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Vision statement

A dynamic and accountable agri-food industry that has a reputation as a supplier of high quality and competitively priced food products.

The New Brunswick Farm Products Commission is a board appointed by the Lieutenant-Governor in Council empowered to carry out the provisions of the *Natural Products Act* and any regulations and orders under the Act.

The *Natural Products Act* defines the scope of government regulation in the marketplace as it pertains to the orderly marketing of food and forest products as well as food inspection managed in conjunction with the Department of Health.

The *Natural Products Act* provides flexibility to producer organizations with respect to naming their organizations and establishing commodity development councils to encourage discussion between producers and other sectors of the industry on matters of mutual interest in a recognized forum. The Act also permits the formation of promotional agencies.

In addition to the above, the *Natural Products Act* grants power to the commission to make changes of an administrative nature to marketing board and agency powers and to delegate authority to industry to establish and administer quality and grade standards.

Mission statement

The New Brunswick Farm Products Commission will strive to create an environment within the regulated agri-food sector that encourages stakeholders to focus their efforts on developing their industries.

In carrying out its mission, the commission is committed to the following values and principles:

- cooperation and communication between all industry stakeholders is key to the further development of the agri-food industry;
- be an impartial, fair-minded agency that supports industry development;
- an orderly marketing system will enhance the viability of the agri-food industry within the global marketplace;
- carry out the mandate provided for in the *Natural Products Act* to the common benefit of producers, processors and consumers;
- as a signatory to national Supply Management programs, the commission will act to both protect and promote the interests of those industries; and
- promote transparency both in carrying out its mandate as well as in the operation of the eight marketing boards and two agencies.

To enhance board and agency transparency and to ensure it operates in accordance with the wishes of the producers and in adherence to the regulations established under the *Natural Products Act*, the commission shall conduct an annual review of the operations of each of the boards and agencies. The commission will ensure each board and agency holds an annual producer meeting to review financial statements and activities for the previous year and make certain that the boards and agencies do not implement significant changes in policy without prior approval of producers. The commission shall supervise the activities of all producer organizations and provide an appeal mechanism for those individuals who feel aggrieved by decisions made by producer organizations.

Under powers granted to it by the *Natural Products Act*, the commission will provide authority and guidance to non-regulated groups of producers who want to collect levies for research and promotion purposes.

The commission will facilitate the creation of industry development councils to foster the development of cross-sector strategies in response to changing market forces. To date, the New Brunswick Dairy Industry Council has been formed to promote sector-wide collaboration to capitalize on market opportunities and resolve industry issues.

In tandem with the Department of Agriculture, Aquaculture and Fisheries, the commission will help expose the agri-food industry to new ways to exploit market opportunities.

To ensure the development of the province's regulated agri-food industry is protected and promoted within national marketing systems, the commission will develop and pursue strategies that are in the best interest of the province. The commission will serve as a signatory to federal-provincial agreements relating to the Supply-Managed commodities, which in New Brunswick include dairy, chicken, turkey and eggs.

Powers of the Farm Products Commission

The commission is responsible for the overall conduct and performance of the regulated marketing system in New Brunswick. In this capacity, it is responsible for ensuring all boards and agencies exercise the powers granted to them in the manner intended.

Through the powers vested in it by the *Natural Products Act*, the commission may:

- investigate, arbitrate, adjudicate upon, adjust or otherwise settle any dispute between producers, processors, distributors or transporters of farm products, or between any two or more of such classes of persons;
- investigate the cost of producing, processing, distributing and transporting any farm product, prices, price spreads, trade practices, methods of financing, management, grading, policies and other matters relating to the marketing of a farm product;
- recommend any marketing plan or the amendment of any plan to the Minister;
- require persons engaged in the production or marketing of a regulated product to register with the commission, agency or board;
- require persons engaged in the production or marketing of a regulated product to furnish information relating to the product, including the completing and filing of reports or returns on a periodic basis or otherwise as the commission or board determines;
- require the furnishing of security or proof of financial responsibility by any person engaged in the marketing of a regulated product and provide for the administration and disposition of all money or securities so furnished;
- appoint inspectors for the purposes of this Act;
- cooperate with a marketing board, local commodity board or agency, marketing commission or marketing agency of Canada or of any province in Canada for the purpose of marketing any regulated product; and
- make orders and issue directives consistent with a plan or the regulations as are necessary to enforce the provisions of the Act or any plan.

The commission also has the power to intervene directly in the marketing of dairy products. Intervention may include but is not limited to the following:

- the establishment and enforcement of marketing conditions that benefit both the dairy products trade and the public;
- license milk dealers, producers, vendors and transporters;
- make regulations or orders pertaining to milk quality, the inspection and classification of milk, and processing of dairy products;
- control milk quality from the farm to the milk dealer;
- make regulations pertaining to penalties on milk that fails to comply with standards of quality; and
- set the price producers receive for their raw milk and set the wholesale and minimum retail price of fluid milk products.

Commission members

Robert Shannon: Chair
Dale McIntosh: Vice-Chair
Léopold Bourgeois
Katherine Trueman
Paul Chiasson

Leigh Mullin
Hannah Searle
Robert Speer
Kevin McKendy

Commission staff

Anna Belliveau: Acting General Manager
Danny Draper: Senior Agriculture Commodities Specialist
Ann McGrath: Administrative Assistant

Commission office
PO Box 6000

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Commission activities

During the period under review, the commission met 10 times and conducted three conference calls to carry out the responsibility of supervising the actions and management of the producer agencies and boards provided for in the *Natural Products Act*. The commission conducted annual reviews of two agencies and all eight commodity boards as well as reviewed all boards and agencies' meeting minutes, annual reports and financial statements.

To fulfil its supervisory role, the commission attended the annual and regional meetings of the producer organizations formed under the *Natural Products Act*, as well as any other relevant agricultural groups, including the New Brunswick Agricultural Alliance.

The commission is tasked with setting the price of milk. In determining this adjustment, it considers studies on the cost of production for dairy producers and a financial analysis of returns to the New Brunswick fluid milk processing industry. After thoroughly reviewing these reports, the commission decides whether a price adjustment is warranted. While setting the price of milk, the commission balances the interests of producers, processors and consumers. This approach allows for competitive prices for New Brunswick consumers while encouraging a viable dairy industry.

In February 2016, the commission adjusted the price of white milk and announced an increase of four cents per litre in the price of fluid white milk. The commission determined that a price adjustment was warranted based on several factors, the most significant being the steadily increasing costs of the production, processing and delivery of milk to consumers.

The commission also determined that school milk prices would not increase for the current school year. Under the School Milk Program, processors and producers subsidize the price of milk for school children in New Brunswick by approximately \$1.2 million per year.

The commission received regular reports from inspection staff on any dairy producer experiencing milk quality problems, whose premises or equipment was substandard and who was otherwise not in compliance with the regulations. The commission responded to these reports by

communicating its concerns to the producer in question, and encouraging them to take corrective action. When the problem was still not corrected, the producer was asked to appear before the Commission.

The commission amended the Milk Quality Regulation, Regulation 2010-09 under the *Natural Products Act*, to include goat and sheep's milk and to address house-keeping issues.

Due to the ongoing media coverage on animal abuse issues on farms in Canada, the commission is continuing to take proactive steps to try and amend either the Milk Quality Regulation or the *Natural Products Act* itself to incorporate animal welfare provisions and enable it as a requirement of licensing for dairy producers.

The commission completed a pan-Canadian jurisdictional scan to determine how "stays" with respect to the appeal process and the awarding of costs are handled in other jurisdictions.

The commission discovered that reconstituted milk was being distributed in federal penal institutions without its prior approval as required. In 2014, the commission sent a letter to Corrections Canada requesting it cease this activity until it obtained the commission's approval. Further written correspondence continued between the commission and Corrections Canada until the matter was resolved in May 2015.

On Nov. 20, 2014, the Canadian chicken industry announced the signing of an Memorandum of Understanding (MOU) on a new allocation agreement that would see 55 per cent of future growth based on provincial comparative advantage factors. Under the proposed agreement, Alberta's and Ontario's quota allocations were bumped to be more in line with their respective populations. The industry is in the final stages of drafting an amended operating agreement, which is part of the federal-provincial chicken plan, to allow the MOU to take effect. The commission, after consultation with both New Brunswick chicken producers and processors, signed the amended Schedule B Operating Agreement of the Federal-Provincial Agreement for Chicken in August 2016.

The commission has amended both the Egg Plan Administration Regulation (2003-71) and the Egg Plan and Levies Regulation (2003-54) under the *Natural Products Act*, to change the board's name from NB Egg Producers to Egg Farmers of New Brunswick.

To standardize the annual reporting by commodity groups to the commission, commission staff developed an annual review template. The template incorporates the responsibilities of boards and agencies under the *Natural Products Act* and will make reporting to the commission by the boards and agencies more uniform.

The NB Cattle Producers experienced difficulties with dealer licensing. Dealers were operating without the required licence and were neither completing the proper documentation when purchasing cattle from farmers nor remitting the associated levies for purchased cattle, including bob-calves. The cattle board hired an auditor to audit farms for licence and levy compliance. The commission supervised and supported the actions of the board while enforcing the board's orders.

The Association of Wild Blueberry Producers of Northeast New Brunswick submitted a request to the commission to become a regional board in March 2013. The commission granted permission for the association to begin the process of becoming a regional board in September 2013. At the request of the association, the plebiscite process was temporarily suspended for the 2014-2015 year. In May 2015, the association made a request to reactivate the process, which the commission has resumed.

The Maple Syrup Association of New Brunswick submitted an official request to the commission to become a regional board in January 2016. Establishing themselves as a regional board would give producers the legal framework for marketing, promotion and research. The commission granted permission for the association to begin the process of becoming a regional board. Commission staff has begun the plebiscite process, which includes consultation with affected producers, determining the legislated authority (powers) the board wants delegated to them, the governance structure of the board, the creation of a list of eligible voters and conducting a plebiscite of the eligible voters. The plebiscite process has been postponed until June 2016 as commission staff wait for further information and direction from the association.

The commission also serves as an appeal body for those aggrieved by decisions made by commodity boards. In that regard, the commission held two appeal hearings in 2015-2016 and made arrangements for another hearing in May 2016.

On May 13, 2015, the commission heard an appeal of a dairy farmer about a decision by the Dairy Farmers of New Brunswick (DFNB) not to discipline a director for alleged defamation. A panel of three commissioners conducted the hearing, and they dismissed the appeal. Dissatisfied with the decision, the producer applied to the Court of Queen's Bench, which dismissed his application for judicial review of the decision and ordered him to pay \$750 in costs to the commission. In a final effort, the producer applied to the Court of Appeal, which dismissed his request for a judicial review and awarded \$1,500 in costs to the commission, which was the respondent.

On Sept. 30, 2015, a dairy producer advised the commission that he wished to appeal DFNB's decision to eliminate non-saleable quota; a date was scheduled for Oct. 30, 2015. On the day of the hearing, the producer retracted his request for an appeal.

On Nov. 4, 2016, chicken processors advised the commission that they wished to appeal Period A-133 live chicken pricing; a date was scheduled for December 2016.

On Dec. 9, 2015, chicken processors advised the commission they wished to appeal Period A-134 live chicken pricing; a date was scheduled for Jan. 25, 2016. Following a request from the processors, and agreed to by the producers (Chicken NB) on Dec. 22, 2015, the panel agreed to postpone both the appeals *sine die* (without setting a future date). The parties wished to continue negotiating.

On Feb. 19, 2016, chicken processors advised the commission they wished to appeal Period A-135 live chicken pricing; a date was scheduled for April 12, 2016.

On March 21, 2016, chicken processors advised the commission they wished to appeal Period A-136 live chicken pricing. Following a request from the processors, the panel agreed to postpone all the chicken appeals and hear them on May 11, 12 and 13, 2016.

Commission orders

In compliance with the *Natural Products Act*, the commission may develop orders that authorize boards and agencies to exercise powers granted to them by regulations. In 2015-2016, the commission approved the following orders:

Dairy industry

2015-04 School Milk Pricing Order: Establishes the maximum wholesale price and the maximum student price for milk distributed under the School Milk Program; repealed Order 2012-09.

2015-05 School Milk Pricing Order: Establishes the maximum wholesale price and the maximum student price for milk distributed under the School Milk Program; repealed Order 2015-04.

2015-06 Wholesale/Retail Pricing Order: Establishes the minimum and maximum wholesale price and minimum retail price for milk sold in New Brunswick; repealed Order 2015-02.

2015-07 Producer Pricing Order: Establishes the price processors must pay dairy producers for their milk; repealed Order 2015-01.

Bleuets NB Blueberries

2016-01 Bleuets NB Blueberries By-Laws Amendment Order: Amends the established process for the appointment of a designated representative to the board.

Supply Management

The three pillars of Supply Management are:

- production discipline;
- producer pricing; and
- import control.

In Canada, the dairy, chicken, egg, broiler hatching egg and turkey industries operate under the national Supply Management system. The effective control of domestic production is one facet that helps equate supply with demand, enabling efficient producers to receive a fair market price to cover the cost of production and a return on investment without the assistance of government subsidies. The existence of Supply Management is also dependent on import controls. Regulating the level of imported products will influence the domestic production required to sustain the market.

Domestic supply requirements are set by national agencies: Chicken Farmers of Canada (CFC), Egg Farmers of Canada (EFC), Turkey Farmers of Canada (TFC), Canadian Hatching Egg Producers (CHEP) and the Canadian Milk Supply Management Committee (CMSMC). These organizations consist of producer, processor and government representatives from all member provinces. Commission delegates were present for the annual and summer meetings of EFC, CFC and TFC.

As a supervisory body, the commission has a statutory obligation to oversee the operation of national Supply Management programs, to participate in discussions regarding provincial participation in those programs and to represent the province in federal/provincial regulated marketing and trade agreements. In fulfilling its 2015-2016 obligations, commission staff attended regular meetings of the CMSMC and the Supervisory Body of the All Milk Pooling Agreement (P5) and four P10 Harmonization meetings, seven Maritime Milk Allocation meetings, seven P5 Milk Allocation Working Group meetings and one National Fluid Milk Pricing meeting. Canadian stakeholders continue to negotiate the migration from two provincial pools (P5 and Western Milk Pool) to a single national pool (P10). The commission will be an active participant in these negotiations.

In addition to the previously mentioned meetings, the interim general manager of the commission participated in two meetings of the National Association of Agricultural Supervisory Agencies (NAASA). NAASA members recognize each other's jurisdictional responsibilities, and they agree that supervisory agencies should work cooperatively in overseeing the national supply management system and that all decisions are fair, defensible and accountable in support of a strong, sustainable, efficient and competitive marketing system.

Financial information

Account	Description	Expenditure
3431	Civil Service Payroll	\$152,494
3453	Casual Payroll	\$ 41,699
3600	Benefits	\$ 6,892
3701	Membership Dues	\$ 200
4083	Computer Maintenance	\$ 385
4500	Business Meetings and Other Services	\$ 6,166
4701	Printing	\$ 1,691
4782	Legal Services	\$ 20,557
4795	Translation	\$ 2,174
4796	Interpretation	\$ 2,503
4860	Telephones	\$ 3,747
4900	Travel	\$ 21,943
5739	Other Supplies	\$ 32
6071	Computer Hardware/Software	\$ 84
	Total	\$ 260,567