

Farm Products Commission

Annual Report
2017–2018

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Province of New Brunswick
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Transmittal letter

From the Chair to the Minister

November 9, 2018

Honourable Ross Wetmore
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, 2017 to March 31, 2018.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Robert Shannon".

Robert Shannon
Chair

Table of contents

- Vision statement 1
- Mission statement 2
- Powers of the Farm Products Commission. 3
- Commission members 4
- Commission staff. 4
- Commission activities. 5
- Commission orders 7
- Supply Management 8
- Financial information 9

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 supervisory body 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 body 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 ensure that the boards and agencies do not implement significant changes in policy without consulting its 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.

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: Interim General Manager
Danny Draper: Senior Agriculture Commodities Specialist
Carrie Roth: Acting Regulations Analyst
Ann McGrath: Administrative Assistant

Commission office
PO Box 6000
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Commission activities

During the period under review, the commission met eleven times and conducted three conference calls to fulfill their supervisory responsibilities of agencies and boards under the Natural Products Act. The commission conducted annual reviews of two agencies and all eight commodity boards plus reviewed all boards and agencies' meeting minutes, annual reports and financial statements.

The staff of 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 Agricultural Alliance of New Brunswick.

The commission is tasked with setting the wholesale and retail prices of fluid milk products. When 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 2018, the commission adjusted the price of white milk and announced an increase of 1.0 cent per litre in the price of fluid white milk. The commission determined that a price adjustment was warranted based on several factors, most notably the increase in payroll, energy, packaging and ingredient costs to dairy processors.

The commission also determined that school milk prices would remain unchanged 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 million per year.

The provincial dairy laboratory was transferred from the Department of Agriculture, Aquaculture and Fisheries to the New Brunswick Research and Productivity Council

(RPC) in 2016. Following this transfer, the commission designated RPC as the official provincial lab for the regulatory testing of raw milk in May of 2017.

Dairy Farmers of New Brunswick (DFNB) approached the commission in March 2017, to request amendments to Regulation 2002-86, the Milk Plan Administration Regulation, to allow staggering of at-large director positions. Following the commission's approval of the proposed amendments, the staff of the commission began the process for amending the regulation. These regulation amendments were finalized in August 2017.

In October 2017, the staff of the commission chaired a Product Loss Committee to determine the facts surrounding the loss of 170,000 litres of finished product by a NB dairy processor who claimed was caused by the receipt of 85,000 litres of poor quality raw milk from DFNB in March 2017. The committee was established for investigative purposes only and did not have any decision-making powers, nor was it responsible for determining liability. In January 2018, the staff of the commission prepared and distributed a final report to all parties of the committee.

As in the 2016-17 year, the commission continued to explore avenues to amend its Milk Quality Regulation to accommodate the implementation of the national proAction program by Dairy Farmers of Canada, a national framework encompassing best management practices on dairy farms. This exploration is expected to further continue in the following year as the commission strives to incorporate the animal care program of the proAction initiative and make the program a requirement of licensing dairy producers. In February 2018, the staff of the commission, Dairy Farmers of New Brunswick, the New Brunswick SPCA and NB dairy processors began collaborating to develop a process to address dairy animal welfare issues in the province.

In September 2016, Apple Growers of New Brunswick approached the commission to make a request to change their definition of "eligible producer" as contained in Regulation 2002-61. The rationale for the amendment was to recognize current production management

procedures. The commission approved the motion to amend the Apple Plan Administration Regulation, 2002-61 in October of 2016. The “eligible producer” definition was amended and the Regulation 2002-61 consolidated to September 1, 2017.

In December 2017, Blueberries NB Bleuets (BNBB) was directed by the commission to amend its governance structure found in the Blueberry Plan Administration Regulation 2006-62. BNBB’s board structure does not reflect today’s geographic distribution of production. BNBB has been working with the staff of the commission to amend the governance structure in the Blueberry Plan Administration Regulation and work on this is expected to extend into the following year.

Under the NPA, the commission is responsible for appointing provincial inspectors. The commission developed and distributed a new inspector template to those commodity boards/government departments that have inspectors in December 2017. The template was developed to ensure all inspectors performing duties under the NPA are aware of their role and responsibilities.

The commission also serves as an appeal body for those who feel aggrieved by decisions made by commodity boards. In that regard, the commission held four appeal hearings in 2017-2018 and planned for additional hearing dates in May 2018.

On January 12, 2017, a panel of the commission heard an appeal of a dairy producer regarding New Brunswick Cattle Producers’ (NBCP)) decisions with respect to levy increases, amendments to regulation, dairy producers being required to pay cattle levies and the way a plebiscite was conducted by NBCP. The panel upheld NBCP’s authority to manage levies and recommended NBCP re-consult its membership on these issues. Following the panel’s decision, the Appellant appealed the panel’s decision to the New Brunswick Court of Appeal. The Court heard the appeal in November 2017 and in January 2018 upheld the Panel’s decision and awarded costs to the appellant.

The commission also received a notice of appeal from a dairy producer alleging that DFNB exceeded its authority and mandate in implementing the proAction program on March 6, 2017. The hearing date was set for April 25, 2017. During the appeal, the panel concluded the matter

being appealed was based on a decision(s) of DFNB that exceeded the thirty-day appeal period limit or referred to initiatives for which DFNB had yet to decide. Given that the appellant had also admitted to not appealing an actual decision of DFNB, the panel dismissed the appeal.

Additionally, in April 2017, a panel of the commission heard an appeal regarding CPNB’s decision to increase levies. During the appeal, the panel determined they did not have the authority to hear the appeal as it was past the thirty-day appeal period therefore the appeal was dismissed.

The same day, the panel of the commission heard a second appeal regarding CPNB’s decision to increase levies and the collection of levies on transport for sale outside of the province of New Brunswick. It was also determined during the appeal hearing that the panel did not have the authority to hear the appeal as it was past the thirty-day appeal period.

In March 2018, the panel of the commission heard an appeal regarding live chicken pricing for production periods A-147 and A-148, A panel of two commissioners conducted the appeal hearing. Due to the complexity of the appeal, additional dates to hear the appeal were set for early May 2018.

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 2017-2018, the commission approved the following orders:

Dairy industry

2017-03 Producer Pricing Order: Establishes the price processors must pay dairy producers for their milk; repealed Order 2017-02.

2017-04 Wholesale/Retail Pricing Order: Establishes the minimum and maximum wholesale price and minimum retail price for milk sold in New Brunswick; repealed Order 2016-10.

2017-05 Designated Laboratories for Testing Raw Milk: Establishes the designated laboratory for testing of raw milk in the province of New Brunswick; repealed Order 2016-12.

2017-06 Wholesale/Retail Pricing Order: Establishes the minimum and maximum wholesale price and minimum retail price for milk sold in New Brunswick; repealed Order 2017-04.

2017-07 Producer Pricing Order: Establishes the price processors must pay dairy producers for their milk; repealed Order 2017-03.

2017-08 Wholesale/Retail Pricing Order: Establishes the minimum and maximum wholesale price and minimum retail price for milk sold in New Brunswick; repealed Order 2017-06.

Commission

2017-09 Rules Governing the Procedures of an Appeal: Establishes the requirements for conducting and participating in a commission appeal; repealed Order 2016-04.

Supply Management

The three pillars of Supply Management are:

- production control;
- authority to price; 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 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 2017-2018 obligations, commission staff attended regular meetings of the CMSMC and the Supervisory Body of the All Milk Pooling Agreement (P5).

Commission staff has been very involved in both New Brunswick and Canadian dairy producers' efforts to implement a national ingredients strategy. This strategy is viewed as an opportunity to modernize the dairy industry and address concerns such as world pricing volatility, structural surpluses of protein, processing drying capacities and the movement of dairy ingredients.

In addition to the aforementioned 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	\$200,541
3453	Casual Payroll	\$ 38,564
3600	Benefits	\$ 8,064
3701	Membership Dues	\$ 739
4083	Hardware Maintenance	\$ 160
4159	Other Fees and Commissions	\$ 170,842
4503	Laboratory Tests	\$ 84,937
4500	Business Meetings and Other Services	\$ 5,892
4509 - 39	Other Services	\$ 1,387
4701	Printing	\$1,868
4703	Graphic Design	\$ 210
4739	Rentals	\$ 625
4782	Legal Services	\$ 2,062
4793	Mgmt Consulting Services	\$ 1,250
4795	Translation	\$ 6,683
4796	Interpretation	\$ 26,132
4860	Telephones	\$ 3,535
4900	Travel	\$ 24,332
	Total	\$ 577 823