

FARM INDUSTRY REVIEW BOARD ACTIVITY PLAN



**Fiscal Years
2008/2011**



Message from the Chairperson



The Farm Industry Review Board (the Board) was established through legislation passed during the 2005 spring session of the House of Assembly.

The entire Board is accountable for the preparation and achievement of the objectives listed in the activity plan. The Board will carry out its job with discipline, emphasizing strategic rather than short-term issues, policy rather than single events, and group rather than individual decisions..

The Board is charged with the responsibility for carrying out the duties and responsibilities that were previously conferred on the Agriculture Products Marketing Board under the Natural Products Marketing Act and the Farm Practices Review Board under the Farm Practices Protection Act.

The Board 's responsibility under the Natural Products Marketing Act is to serve as a supervisory board with the power and authority under the Act to control and direct the operations of the provincial commodity boards including the Egg Producers of Newfoundland and Labrador, the Chicken Farmers of Newfoundland and Labrador, and the Dairy Farmers of Newfoundland and Labrador.

The Board 's responsibility under the Farm Practices Protection Act is to provide farmers, who operate in an acceptable manner, with protection against nuisance suits. Under the Act, The Board is empowered to review agriculture related nuisance cases and determine if a farm is operating according to acceptable farm practices.

Reporting directly to the Minister of Natural Resources, The Board is a seven person board with diverse backgrounds and experiences. Its endeavors are supported by a full time manager. The Board operates from the Provincial Agriculture Building, Brookfield Road, St. John's, Newfoundland and Labrador. The Board considered the strategic directions of government, as communicated by the Minister of Natural Resources. Given the Board's current mandate and priorities, it was determined that we do not have a direct role to play in the department's strategic directions at this time.

Under the Transparency and Accountability Act, The Board is defined as a category 3 entity and as such is required to submit a 3 year "activity plan" to the Minister of Natural Resources to be tabled in the House of Assembly.

On behalf of the Farm Industry Review Board, I am pleased to present our three year activity plan for fiscal years covering 2008/2009, 2009/2010 and 2010/2011.

Members of the Farm Industry Review Board in its governance role supports all industry stakeholders as well as the broader public interest amongst commodity boards and commissions. Members of the Farm Industry Review Board are pleased to support the agricultural and agrifood industry in Newfoundland and Labrador as it embraces new opportunities and contributes to the growing prosperity of our province.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin J. Hammond". The signature is fluid and cursive, written over a light-colored background.

Martin J. Hammond
Chairperson

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1. Overview

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 a person nominated by the Newfoundland and Labrador Federation of Agriculture. Members of the Board shall be 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.

Current representation is as follows:

Mr. Martin J. Hammond

Chairperson
St. John's
Appointed for a 3 year term
Nov. 21/05 to Nov. 21/08

Ms. Rita Legge

Member
Cartyville
Appointed for a 3 year term
Nov. 21/05 to Nov. 21/08

Ms. Violet Parsons

Vice-Chairperson
Bloomfield, Bonavista Bay
Appointed for a 3 year term
Nov. 21/05 to Nov. 21/08

Mr. Wayne Ruth

Member
Kippens
Appointed for a 3 year term
Nov. 21/07 to Nov. 21/10

Ms. Connie Stewart

Member
Goose Bay
Appointed for a 3 year term
Nov. 21/05 to Nov. 21/08

Mr. Reg King

Manager
St. John's

Mr. Mervin Wiseman

Member
North Harbour, Placentia Bay
Appointed for a 3 year term
Nov. 21/05 to Nov.21/08

The board was created in May 2005 and the membership was appointed in November, 2005. Its total budget is included in the annual budget of the Department of Natural Resources.

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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A1B 4J6

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<http://www.nr.gov.nl.ca/agric/farmboard/>

2. 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 odor, 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.

3. 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.

1. 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. 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.

2. 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 odor, 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."

3. Lines of Business (Cont'd)

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.

3. Signatory Role

The Board, the Minister of Natural Resources, Intergovernmental Affairs Secretariat 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.

4. Values and Guiding Principles

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.

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

5. 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
- ❖ Non marketing board commodities
- ❖ Farmers
- ❖ Members of the general public who are aggrieved by odor, noise, dust or other disturbances arising from farm operations
- ❖ Members of the general public who are aggrieved by or dissatisfied by an order, decision or determination of a commodity board
- ❖ Members of the general public who are interested in obtaining information about the farming industry.

6. Vision

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

7. Mission Statement

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 will achieve 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.

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

Measure: Enhanced Role

Indicators:

- Conducted hearings (where required)
- Improved decision-making processes in the areas of:
 - Complaint resolution
 - Appellant resolution
- Provided dispute resolution strategies to resolve conflicts
- Advised parties on the results of hearings
- Improved support to the non-supply/demand markets
- Advised Government on farming-related issues
- Processed applications
- Assessed client needs
- Participated in trade shows
- Improved farmer registration system

8. Objectives

The Board is now presenting a three year plan covering the period ending on March 31, 2011. This plan includes a list of objectives that the Board will look forward to achieving.

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.

The Board, which is responsible for the NPMA is required to keep the Minister informed of the production and/or marketing of natural products as defined in the Act.

“The following objective is the focus of the work of the Board for fiscal years 2008/09, 2009/10 and 2010/2011 and will be reported on in the relevant annual reports”.

Objective: 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:

- Attendance at meetings of the provincial commodity boards
- Attendance at meetings of the National Association of Agricultural Supervisory Boards
- Participate in periodic teleconference meetings with the National Association of Agricultural Supervisory Boards
- Attendance at annual meetings of the National Feather Agencies (Canadian Egg Marketing Agency and Chicken Farmers of Canada)

Issue 2: Board Processes

The Board is responsible for hearing appeals on decisions made by commodity boards and the Board acts as a quasi-judicial appeal body. The Board adheres to the principles of natural justice and administrative law. The Board must have documented policies and procedures not only to assist the Board but also its clients in understanding how a hearing process is conducted. This has been highlighted in other jurisdictions in Canada. The Board will carry out its job with discipline, emphasizing strategic rather than short-term issues, policy rather than single events, and group rather than individual decisions.

Objective: By March 31, 2009, the Farm Industry Review Board will have initiated processes to enhance Board policies and procedures.

Measure: Initiated processes

Indicators:

The following policy documents are implemented:

- How Board meetings are conducted
- How to conduct hearings

Objective: By March 31, 2010, the Farm Industry Review Board will have initiated additional processes to enhance Board policies and procedures.

8. Objectives (Cont'd)

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

9. Appendix A: 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;

9. Appendix A: Legislated Mandate (Cont'd)

- (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.

9. Appendix A: Legislated Mandate (Cont'd)

- (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.