



2009-2010

Annual Report

New Brunswick
Farm Products
Commission

November 4, 2010

The Honourable Michael Olscamp
Minister of Agriculture, Aquaculture and Fisheries
Province of New Brunswick
P.O. Box 6000
Fredericton, NB E3B 5H1

Dear Sir:

On behalf of the New Brunswick Farm Products Commission, I have the honour to submit the Annual Report for the period April 1, 2009 to March 31, 2010.

Respectfully submitted,

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

Robert Shannon
Chairman

FARM PRODUCTS COMMISSION
ANNUAL REPORT 2009-2010

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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 Product 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 which is 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 Farm Products 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;

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- as a signatory to national supply management programs, the Commission will act to both protect and promote the interests of those industries;
- promote transparency both in carrying out its mandate as well as in the operation of the eight marketing boards and one agency.

In order to enhance board and agency transparency and to ensure that 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 agency. The Commission will ensure that 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 agency 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 and Aquaculture, the Farm Products Commission will help expose the agri-food industry to new ways to exploit market opportunities.

To ensure that 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 that capacity, it is responsible for ensuring that 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*;
- Co-operate 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;
- 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 general public;
- License milk dealers, producer suppliers, vendors and transporters;
- Make regulations or orders pertaining to milk quality, the inspection and classification of milk, and processing of dairy products;

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- 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;
- Set the price producers receive for their raw milk and set the wholesale price of fluid milk products.

Commission Members

Hazen Myers	Chairman	Leigh Mullin
Dale McIntosh	Vice-Chairman	John Robinson
Léopold Bourgeois		Hannah Searle
Kathy Briggs		Katherine Trueman
Paul Chiasson		

Commission Staff

Robert Goggin	General Manager
Danny Draper	Senior Agri. Commodities Specialist
Laura Poffenroth	Commodities Analyst
Ann McGrath	Administrative Assistant

Commission Office

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Commission Activities

The Farm Products Commission met eight times and conducted two conference calls to carry out the responsibility of supervising the actions and management of the producer agency and boards provided for in the *Natural Products Act*. The Commission conducted annual reviews of the agency and all eight commodity boards, as well as reviewed their meeting minutes, all annual reports and financial statements.

To fulfill 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.

In February 2010, the Commission announced an increase in the price of fluid milk. In determining this adjustment, the Commission considered studies on the cost of production for the province's dairy producers and a financial analysis of returns to the New Brunswick processing industry conducted by an independent firm. After thoroughly reviewing these reports, the Commission concluded that a price increase was justified and decided on the appropriate margins for producers, processors and retailers. In setting the price of milk, the Commission balanced the interests of producers, processors and consumers. This approach allows for competitive prices for New Brunswick consumers while encouraging a viable dairy industry.

In the previous year, the Commission staff actively assisted a foreign cheese manufacturer in successfully attaining milk quota under the Domestic Dairy Product Innovation Program of the Canadian Dairy Commission. The milk quota will be used to supply a new state-of-the-art cheese plant to be built in New Brunswick in the coming year. The Commission continues to stay abreast of the progress of the new plant and looks forward to the opening of this new venture.

The Commission received regular reports from inspection staff on dairy producers who were experiencing milk quality problems, whose premises or equipment were substandard, and who were otherwise not in compliance with the regulations. The Commission responded to these reports by communicating its concerns to the producer and encouraging the producer to take corrective action, and failing that, requested the producer to appear before the Commission.

When the *Natural Products Act* came into effect in April 1999, it replaced seven other acts administered by the former Department of Agriculture and Rural Development. Since the creation of the new *Act*, Commission staff has been updating the legislation under the old acts, preparing new regulations, repealing obsolete regulations and amending others. In February 2010, an updated Milk Quality Regulation came into force; this regulation, Regulation 2010-19, replaced Regulation 86-118 under the *Dairy Products Act*. The Milk Quality Regulation establishes the quality standards for milk produced in New Brunswick as well as the standards covering all aspects of milk production, from facilities and equipment on dairy farms to the collection, transportation and delivery of milk. With the full support of the Dairy Farmers of New Brunswick and

through close consultation with them and farm inspection staff, the Commission developed a penalty system for dairy producers who commit an infraction when their premises and/or equipment do not comply with the Milk Quality Regulation. In the fall of 2010, the penalty system and a new inspection form and procedures will be implemented.

The New Brunswick Cranberry Growers Association formally requested that the Commission conduct a plebiscite to determine the level of support for the establishment of a cranberry agency. The creation of an agency will provide the legal means to create infrastructure enabling cranberry producers to promote the consumption and use of cranberries and undertake research initiatives for cranberries in New Brunswick. The plebiscite of 20 cranberry producers representing over 500 acres of cranberry production in New Brunswick returned over 76% of respondents in favour of a cranberry agency. In March 2010, approval was granted to draft the required regulations to establish a New Brunswick Cranberry Agency; these regulations are expected to be completed in the summer of 2010.

Since 2007, there has been an ongoing dispute between New Brunswick's only federally inspected chicken processor, Nadeau Poultry Farm Ltd. (Nadeau) and several chicken producers who have chosen to redirect their production from Nadeau to Olymel, a Quebec based processor. Numerous appeals and court challenges have been held on this dispute with the ultimate decision of the New Brunswick Court of Appeal released on August 20, 2010, that dismissed Nadeau's appeal and upheld the right of producers to ship their live birds to the processor of their choice regardless of the Province where that processor is located. Concurrent with this legal challenge, Nadeau also took their case before the Canadian Competition Tribunal (Tribunal) whereupon a hearing took place in November of 2008 and on June 8, 2009, the Tribunal found in favour of producers legal right to sell their product to the customer of their choosing. This decision has been appealed by Nadeau and a hearing is scheduled for the Fall of 2010.

In addition to the ongoing legal challenges, the Commission acquired the services of a chartered accounting firm under the authority of the *Inquiries Act* to conduct an investigation on the validity of Nadeau's claims regarding the impact of the above dispute (the movement of chicken out of the province) on the volume of chicken processed and the company's employment reductions. With the permission of Nadeau, the report from this investigation was made available to Government.

The Farm Products Commission conducted an investigation on the price New Brunswick blueberry producers received for their raw product compared to producers in Quebec. Concern was raised that an inequitable pricing scheme was used by wholesalers placing New Brunswick producers at a disadvantage to Quebec producers. The investigation determined that, although the price of blueberries have dropped significantly in the last number of years, New Brunswick producers averaged similar prices for their blueberries as Quebec producers.

The Commission performed a bank reconciliation audit and operational review of the NB Cattle Producers (the Board) due to the poor financial position of the Board. The Board continues to be underfunded as a direct result of unpaid levies that are legally obligated to be paid by the industry. Commission staff assisted the Board in reorganizing priorities, updating Board Orders, and reviewing enforcement options to ensure accurate and rightful levy collection.

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 2009-2010, the Commission approved the following orders:

All Industries

2009-07 Delegation of Authority: Empowered two appointed inspectors to conduct an investigation.

Dairy Industry

2009-06 Milk Container Order: Establishes the legal container sizes of fluid milk and cream products; repealed Order 2007-10.

2010-01 Wholesale/Retail Pricing Order: Establishes the minimum and maximum wholesale price and minimum retail price for milk sold in New Brunswick; repealed Order 2009-04.

2010-02 Producer Pricing: Establishes the price processors must pay dairy producers for their milk; repealed Order 2009-01.

2010-03 Dairy Farmers of New Brunswick Borrowing Order: Empowers the board to borrow money; repealed Orders 2003-01 and 2000-02.

2010-05 Milk Quality and Premise Penalty Order: Establishes the particulars of the penalty system for producers' milk quality and premises that are not in compliance of the regulations.

Potatoes NB

2010-04 Potatoes NB Borrowing Order: Empowers the board to borrow money for the Advanced Payment Program; repealed Order 2009-03.

Apple Growers of NB

2009-05 Apple Growers of NB Borrowing Order: Empowers the board to borrow money for the Advanced Payment Program.

Supply Management

The three pillars of supply management are:

Production discipline

Producer pricing

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.

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 2009-2010 obligations, Commission officials attended four regular meetings of the CMSMC and the Supervisory Body of the All Milk Pooling Agreement (P5) and a P5 Harmonization meeting.

The Commission hosted the Farm Products Council of Canada (FPCC), formerly known as the National Farm Products Council, twice this past year; the FPCC is the Federal body delegated to supervise the operations of the four national marketing agencies that manage the supply of Canadian poultry, eggs and broiler hatching eggs. The first meeting was an informal communication session with all members of the Commission and FPCC held in concert with the Canadian Poultry and Egg Processing Council annual meeting held in Moncton. In addition to the meeting, the Commission familiarized the FPCC as to the diverse agriculture ventures in New Brunswick, including a tour of a buffalo farm and cranberry bogs. The second meeting was a joint roundtable forum with

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the Chicken Farmers of New Brunswick and chicken processors to discuss concerns over the allocation system for the Canadian chicken industry. The FPCC chairman, a FPCC member and staff conducted a cross Canada tour to garner feedback from each province on this issue with the objective of developing potential solutions.

Farm Products Commission delegates were present for the annual meeting and an executive planning meeting of the International Association of Milk Control Agencies (IAMCA), as well as the annual and summer meetings of EFC, CFC and TFC.

In addition to the previously mentioned meetings, the General Manager of the Commission was re-elected for a third term as chair of the National Association of Agricultural Supervisory Agencies (NAASA) where he participated in four meetings. He also co-chaired with FPCC a meeting with national chicken industry stakeholders to discuss the issue of inter-provincial movement of chicken.

Finances

<u>Account</u>	<u>Description</u>	<u>Expenditure</u>
3430	Civil Service Payroll	\$208,577
3450	Casual Payroll	\$ 36,239
3600	Benefits	\$ 10,423
4080	Computer Maintenance Service	\$ 40
4500	Other Services	\$ 3,586
4700	Printing & Copying	\$ 1,339
4730	Rentals	\$ 0
4780	Accounting & Legal Services	\$ 23,735
4790	Consulting/Research Services	\$ 1,333
4800	Instructor Services	\$ 1,771
4860	Telephones	\$ 3,631
4900	Travel	\$ 50,503
5090	Subscriptions	\$ 190
5630	Supplies	\$ 26
5730	Stationary Supplies	\$ 632
6070	Computer Hardware/Software	\$ 4,853
	TOTAL	\$346,87

