



2008-2009

Annual Report

New Brunswick
Farm Products
Commission

November 4, 2009

The Honourable Ronald Ouellette
Minister of Agriculture & Aquaculture
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, 2008 to March 31, 2009.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Hazen Myers". The signature is written in a cursive style with a large, looping initial "H".

Hazen Myers
Chairman

FARM PRODUCTS COMMISSION
ANNUAL REPORT 2008-2009

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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	Anne Michaud	(outgoing)
Dale McIntosh	Vice-Chairman	Leigh Mullin	(new)
Léopold Bourgeois	(new)	John Robinson	
Kathy Briggs	(new)	Hannah Searle	
Leslie Cail	(outgoing)	Katherine Trueman	
Paul Chiasson		Eddy Williams	(outgoing)

Commission Staff

Robert Goggin	General Manager
Danny Draper	Senior Agri. Commodities Specialist
Laura Poffenroth	Regulations Analyst
Natalie Trainor	Administrative Assistant

Commission Office

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Commission Activities

In 2008-2009, the Farm Products Commission met eleven times and conducted three 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.

In January 2009, the Farm Products Commission welcomed three new members to the Commission after the five year term appointments finished for Leslie Cail, Anne Michaud and Eddy Williams. The Commission would like to thank Leslie, Anne, Eddy and Natalie Trainor, who also vacated her role as the Administrative Assistant for the Commission, for their continued hard-work and guidance in fulfilling the requirements of the Farm Products Commission.

In fulfilling 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.

As part of its mandate, the Commission is responsible for setting the price of fluid milk sold in the province. In an unprecedented move the Commission approved a mid-year price increase in September 2008. The Dairy Farmers of New Brunswick and the Milk Dealers Association asked the Commission for an emergency price increase as an interim measure to provide relief to producers and processors due to the exorbitant increases in costs of production mainly as a result of gas, feed and fertilizer prices. In response to the request the Commission adjusted the wholesale and retail prices accordingly with the intention that the September increase would be deducted from any increase to take effect in February; this action would also lessen the impact to consumers on February 1, 2009.

In February 2009, 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 2008-2009, 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 complying with the regulation. The Commission responded to these reports by communicating its concerns to the producer

and encouraging the producer to take corrective action, and failing that, request that the producer 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 2007, the Commission became aware of a dispute between the chicken processor, Nadeau Poultry Farm Ltd. (Nadeau) and chicken producers, Groupe Westco Inc. (Westco), Volailles Acadia, and Groupe Dynaco. Westco, in partnership with Olymel, a Quebec processor, began negotiations to purchase Nadeau in Saint-François-de-Madawaska. Those negotiations broke down and Westco and Olymel subsequently announced that they would be building a new processing plant in New Brunswick and beginning July 2008, Westco would shift their supply (51% of New Brunswick's production) to Olymel. At that same time, Volailles Acadia and Groupe Dynaco also announced their intention to withdraw their supply representing 22% and 5% respectively of New Brunswick's production from Nadeau due to a poor business relationship. Nadeau Poultry then requested that Chicken Farmers of New Brunswick (CFNB) impose a plant allocation system in the province that would require a predetermined quantity of New Brunswick's live chicken supply be processed in the province. Currently Nadeau is the only federally inspected processing facility in New Brunswick. The Chicken Farmers of New Brunswick denied Nadeau's request and that decision was subsequently appealed to the Farm Products Commission. On June 23, 24, 25, 2008, the Farm Products Commission heard the appeal of Nadeau Poultry Farm Ltd. v Chicken Farmers of New Brunswick. After a careful review of the presentations and evidence the Commission dismissed Nadeau's appeal. Nadeau then appealed the Commission decision to the New Brunswick Court of Appeal and a hearing date was scheduled for June 2009. Concurrent with this legal challenge, Nadeau also took their case before the Canadian Competition Tribunal whereupon a hearing took place in December and at year end the outcome of that hearing was still pending.

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 2008-2009, the Commission approved the following seven orders:

All Industries

2008-04 Rules Governing the Procedure of an Appeal: Establishes the requirements for conducting and participating in a Commission appeal.

Dairy Industry

- 2008-06 Wholesale/Retail Pricing Order:** Establishes the minimum and maximum wholesale price and minimum retail price for milk sold in New Brunswick; repealed Order 2007-09.
- 2008-07 Producer Pricing:** Establishes the price processors must pay dairy producers for their milk; repealed Order 2008-01.
- 2009-01 Producer Pricing:** Establishes the price processors must pay dairy producers for their milk; repealed Order 2008-07.
- 2009-02 Wholesale/Retail Pricing Order:** Establishes the minimum and maximum wholesale price and minimum retail price for milk sold in New Brunswick; repealed Order 2008-06.

Porc NB Pork

- 2008-05 Porc NB Pork Borrowing Order:** Empowers the board to borrow money for the Advanced Payment Program; repealed Order 2007-06.
- 2008-08 Porc NB Pork Borrowing Order:** Empowers the board to borrow money for the Advanced Payment Program; repealed Order 2008-05.

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.

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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 2008-2009 obligations, Commission officials attended four regular meetings of the CMSMC and the Supervisory Body of the All Milk Pooling Agreement (P5) and the P5 Producer Planning Forum.

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, Commission representatives participated in four meetings of the National Association of Agricultural Supervisory Agencies (NAASA) to help direct renewal of outdated Federal Provincial Agreements, to develop a national regulatory position on the issue of excessive interprovincial movement of chicken and to develop governance principles to guide members in their supervision of regulated marketing and other agencies within their national and provincial jurisdictions.

Finances

<u>Account</u>	<u>Description</u>	<u>Expenditure</u>
3430	Civil Service Payroll	\$207,701
3450	Casual Payroll	\$ 68,743
3600	Benefits	\$ 7,506
4080	Computer Maintenance Service	\$ 40
4500	Other Services	\$ 5,489
4700	Printing & Copying	\$ 2,144
4730	Rentals	\$ 1,925
4780	Legal Services	\$ 22,801
4790	Consulting/Research Services	\$ 8,016
4800	Instructor Services	\$ 986
4860	Telephones	\$ 4,828
4900	Travel	\$ 59,766
5090	Subscriptions	\$ 175
5630	Supplies	\$ 7
5730	Stationary Supplies	\$ 1,622
6070	Computer Hardware/Software	\$ 2,316
	TOTAL	\$394,065

