

## Appendix B: List of Crowns, Agencies, Boards and Commissions

### British Columbia Farm Industry Review Board

Executive Summary<sup>1</sup>

#### Purpose of the Board

The British Columbia Farm Industry Review Board, the Board, is an independent administrative tribunal that operates at arm's-length from government. As the regulatory tribunal responsible for the general supervision of B.C. regulated marketing boards and commissions, the Board provides oversight, policy direction and decisions to protect the public interest. In its adjudicative capacities, the Board provides a less formal system than the court for resolving disputes in a timely and cost effective way. The Board consists of a part-time board of up to ten members and nine full time equivalent staff positions and is accountable to government for its administrative operations.

The Board's statutorily mandated responsibilities are established in the *Natural Products Marketing (BC) Act*, the *Farm Practices Protection (Right to Farm) Act*, the *Prevention of Cruelty to Animals Act*, and the *Agricultural Produce Grading Act* and are supported by the *Administrative Tribunals Act*. They include:

- supervising B.C.'s regulated marketing boards and commissions;
- being a signatory to formal federal-provincial cooperation agreements in regulated marketing;
- hearing appeals of regulated marketing board and commission orders, decisions and determinations;
- hearing appeals of Minister of Agriculture decisions to refuse, suspend, revoke or not renew agricultural produce grading licenses;
- hearing appeals related to certain animal custody and cost decisions of the B.C. Society for the Prevention of Cruelty to Animals;
- hearing farm practices complaints from persons disturbed by odour, noise, dust or other disturbances arising from agriculture or certain aquaculture operations; and
- conducting farm practices studies.

Through its annual strategic plan and other strategic documents, the Board establishes the goals, objectives, strategies and performance measures it believes are necessary to achieve its mandates.

BCFIRB is engaging with the Ministry to develop a Letter of Expectations in response to the Taxpayer Accountability Principles announced in June 2014.

Further information about the British Columbia Farm Industry Review Board may be found at <http://www.firb.gov.bc.ca/>.

<sup>1</sup> The complete report is available on [BCFIRB's](#) website.

#### Goals, Objectives, Strategies and Performance Measures:

##### Goal 1: A regulated marketing system with effective self-governance.

**Objective 1.1: The British Columbia Farm Industry Review Board and marketing boards and commissions practice good governance in their external and internal operations.**

**Strategies:**

- Ensuring that marketing boards and commission activities and decisions are administratively fair, in compliance with legislation/regulations and in accord with sound marketing policy.
- Requiring boards to give consideration to the government policy framework and the public interest.
- Providing supervisory intervention when necessary.
- Working to achieve priorities within budget while continuing to place importance on board and staff development and training.
- While preserving its independence as a tribunal, continuing to work to ensure effective relations with the Ministry of Agriculture, regulatory agencies at all levels, and stakeholders.

**Performance Measure 1: BCFIRB and the boards and commissions it supervises exercise appropriate governance and fiscal procedures in exercising their mandates.**

Performance Measure	2014/15 Actual	2015/16 Target	2015/16 Actual	2016/17 Target	2017/18 Target	2018/19 Target
BCFIRB & boards/commissions exercise appropriate governance & fiscal procedures.	Met	All meet 2015/16 expectations	Met	All meet 2016/17 expectations	All meet 2017/18 expectations	All meet 2018/19 expectations

**Discussion**

Use of appropriate governance and fiscal procedures demonstrates accountability for legislated authorities and supports good industry outcomes. While some improvements remain, BCFIRB is largely satisfied with the progress that boards and commissions have made towards demonstrating best practices in their governance and fiscal procedures. As examples, progress was demonstrated in the areas of election rules, publication of key governance documents, transparent and accountable financial management, relationship building and training.

**Performance Measure 2: Boards and commissions demonstrate that their programs, policies and decisions reflect legislative intent, sound marketing policy and consider the public interest.**

Performance Measure	2014/15 Actual	2015/16 Target	2015/16 Actual	2016/17 Target	2017/18 Target	2018/19 Target
Programs, policies and decisions reflect legislative intent, sound marketing policy and consider the public interest.	Met	All meet 2015/16 expectations	Met	All meet 2016/17 expectations	All meet 2017/18 expectations	All meet 2018/19 expectations

## Discussion

A primary objective of supply-managed industries is to maintain orderly marketing while supporting the public interest and strengthening social license. Boards and commissions, with BCFIRB support as required, continued with several initiatives to support the proactive management of risks that is needed to ensure a continuous supply of safe, high quality products to consumers, while actively responding to growing public expectations. Initiatives continued in the areas of, for example, animal welfare, disease management, food safety, regional and new entrant opportunities and environmental sustainability.

### **Performance Measure 3: The British Columbia Farm Industry Review Board demonstrates fiscal responsibility by operating within budget.**

Performance Measure	2014/15 Actual	2015/16 Target	2015/16 Actual	2016/17 Target	2017/18 Target	2018/19 Target
BCFIRB expenditures are on budget.	5.4% over-budget	Expenditures are within 5%	Met	Expenditures are on budget	Expenditures are on budget	Expenditures are on budget

## Discussion

BC Farm Industry Review Board's 2014/15 official budget of \$891,000 was augmented to \$1.201 million in 2015/16 in recognition of chronic budget pressures and expanding responsibilities. Despite the budget increase, ongoing effort was required in 2015/16 to manage the budget to target with total expenditures for the fiscal year at \$1.205 million. Intensive budget management will also be required in 2016/17. BCFIRB cannot necessarily predict its full workload or the particular complexity of individual cases, which must be conducted independently and in accordance with the principles of administrative law. BCFIRB will also need to manage transition with new board members and staff retirement.

### **Goal 2: A principles-based, outcomes-oriented approach to regulation.**

#### **Objective 2.1: The British Columbia Farm Industry Review Board and marketing boards and commissions use a principles-based approach to regulating. Strategies:**

- Working with boards and commissions to develop, adopt and employ a principles-based approach to regulation.
- Requiring all British Columbia Farm Industry Review Board, marketing board and commission orders, decisions and determinations to be made available to the public, except where privacy legislation and policies apply.
- Promoting policies that reflect B.C. interests at both the federal and provincial levels.

### **Performance Measure 4: The British Columbia Farm Industry Review Board and the boards and commissions it supervises demonstrate the application of the**

**Strategic, Accountable, Fair, Effective, Transparent and Inclusive (SAFETI) principles in their programs, policies and decisions.**

Performance Measure	2014/15 Actual	2015/16 Target	2015/16 Actual	2016/17 Target	2017/18 Target	2018/19 Target
BCFIRB & Boards and Commissions apply SAFETI principles.	Met	All meet 2015/16 expectations	Met	All meet 2016/17 expectations	All meet 2017/18 expectations	All meet 2018/19 expectations

**Discussion**

BCFIRB is very satisfied with progress made on implementation of the principles-based approach to regulation, including SAFETI, in 2015/16. BCFIRB recognizes principles-based regulation is a significant culture shift for boards and commissions and encourages them to maintain their progress in 2016/17. BCFIRB will look to the boards and commissions to demonstrate leadership in delivering the third phase of the principles-based approach to regulation that reflects the SAFETI principles in 2016/17.

**Performance Measure 5: British Columbia Farm Industry Review Board orders, decisions, determinations, practices and procedures and other information are published. Marketing board and commission orders, decisions and determinations are published promptly after being made in order to preserve rights of appeal under the NPMA.**

Performance Measure	2014/15 Actual	2015/16 Target	2015/16 Actual	2016/17 Target	2017/18 Target	2018/19 Target
Orders, decisions & determinations are published promptly.	Met	All meet 2015/16 expectations	Met	All meet 2016/17 expectations	All meet 2017/18 expectations	All meet 2018/19 expectations

**Discussion**

In 2015/16, BCFIRB routinely posted all of its complaints and appeals decisions on its website after seven days following the decision as required by its Rules of Practice and Procedure. Supervisory decisions were similarly posted in a timely fashion. BCFIRB also published all significant correspondence. Boards and commissions are making progress on publishing orders, determinations, decisions and other information in a timely manner. For example, boards and commissions generally posted amendments to their General Orders in a timely manner. BCFIRB again reminds boards and commissions of the importance of publishing information promptly to provide transparency and accountability to the regulated marketing system and to protect rights of appeal under the NPMA by those aggrieved by or dissatisfied with an order, decision or determination of a board. BCFIRB also continues to emphasize the importance for boards and commissions to provide clear and public rationales for decisions taken. BCFIRB is encouraged by examples, such as the Chicken Board's Schedule 15 decision template as a record of decision, and encourages other boards and commissions to consider models for demonstrating the consideration of SAFETI principles in their decision-making.

**Performance Measure 6: The British Columbia Farm Industry Review Board and the boards and commissions it supervises work to maintain and where possible grow the market for BC produced product.**

Performance Measure	2014/15 Actual	2015/16 Target	2015/16 Actual	2016/17 Target	2017/18 Target	2018/19 Target
No production or base allocation loss in supply-managed sectors.	Exceeded	No Loss	Met	No loss	No loss	No loss

**Discussion**

The farm-gate value for regulated marketing products increased marginally, contributing an estimated farm-gate value of just over \$1.6 billion for 2014. Regulated marketing sectors continue to contribute more than one-half of the \$2.9 billion farm gate value of all agricultural output in the province, with a commensurate economic contribution from downstream processing and marketing sectors. In their annual reports, marketing boards and commissions identified several significant undertakings in 2015/16 to develop markets and promote demand; to anticipate opportunities, challenges and risks; and to respond to issues as they arose.

**Goal 3: Effective, fair and independent resolution of inquiries and disputes.**

**Objective 3.1: Ensure issues and disputes arising within the British Columbia Farm Industry Review Board’s jurisdiction are resolved in a fair and timely manner.**

**Strategies:**

- Using farm practices studies to help prevent and resolve farm practices disputes.
- Using supervisory processes to help prevent and resolve regulated marketing disputes.
- Using timely, fair and accessible processes to help resolve complaints (under the *Farm Practices Protection (Right to Farm) Act*), and appeals (under the *Natural Products Marketing (BC) Act*, *Prevention of Cruelty to Animals Act* and the *Agricultural Produce Grading Act*).

**Performance Measure 7: BCFIRB reports annually on time from filing to resolution, cost per case, and user satisfaction for each of its appeals and complaints processes beginning 2015/16.**

Performance Measure	2014/15 Actual	2015/16 Target	2015/16 Actual	2016/17 Target	2017/18 Target	2018/19 Target
BCFIRB reports annually. Appeals and complaints are routinely handled within target process timelines	100%	100%	100%	100%	100%	100%

The table below summarizes BCFIRB’s appeals and complaints activities in 2015/16.

	Farm Practices Complaints	Regulated Marketing Appeals	Appeals under Prevention of Cruelty to Animals Act
Carried forward from previous fiscal year	9	17	2
New appeals filed	4	12	13
Active appeals	13	29	15
Appeals resolved in fiscal year	10	25	11
Appeals carried forward	3	4	4

## Discussion

Each of the 13 appeals filed under the *Prevention of Cruelty to Animals Act* was resolved within the 29 business days established within BCFIRB's Practice Directive. Of the four *Farm Practices Protection Act* complaints filed in the fiscal year, three were resolved within the time line specified in the Practice Directive while the fourth is continuing into fiscal 2016/17. For the 12 regulated marketing appeals filed under the *Natural Products Marketing Act* only one went to hearing and it was decided within the timeframe established in the Practice Directive. The remainder were resolved through alternative dispute resolution processes.

Work continued in 2015/16 to set the groundwork for conducting user satisfaction surveys as provided for in amendments to the *Administrative Tribunal Act*. No survey was initiated pending resolution of methodological and other preliminary matters identified in part through discussion with the tribunals community (for example notification to appeal and complaint applicants that contact information may be used for survey purposes).

BCFIRB also collected preliminary benchmark cost-per-case information for its respective appeals and complaints mandates. While there is considerable variability from case to case, approximate average cost-per-case estimates are \$5075, \$5140 and \$2025, for *PCAA* and *NPMA* appeals, and *FPPA* complaints, respectively.

BCFIRB's formal supervisory review process is a strategic approach to managing systemic industry issues that could otherwise result in large numbers of appeals or delays with little to no long-term benefit to industry or the associated value chain. Supervisory reviews support broad consultation and examination of inter-linking program and policy considerations leading to more beneficial outcomes for industry and, by extension, the public. BCFIRB held two formal supervisory reviews (Vancouver Island Regulated Vegetable Review; Chicken Operating Agreement Review) in 2015/16 and carrying on into 2016/17.

Two BCFIRB decisions were the subject of Judicial Review in 2015/16, both under the *PCAA* (*Binnersley vs. BCSPCA* and *McKinnon vs. BCSPCA*). The Judicial Review process for these is ongoing into 2016/17.

While BCFIRB did not undertake any farm practices studies in 2015/16, previous propane cannon studies continue to provide a basis for guidance to BCFIRB, the Ministry of Agriculture, local governments and the BC Blueberry Council in addressing this type of noise complaint. There were no propane cannon noise complaints filed with BCFIRB in 2015/16.

The *Administrative Tribunals Statutes Amendment Act, 2015* was introduced in March 2015 and changes were made to the *Administrative Tribunals Act* in December 2015, along with consequential

amendments to the *NPMA*, *PCAA* and *FPPA*. These changes reflected efforts by BCFIRB, the Ministry of Agriculture, Ministry of Justice and other tribunals in support of legislative and regulatory changes to enhance the capacity of tribunals to resolve disputes. Work was ongoing in 2016 to review BCFIRB’s Rules of Practice and Procedure to ensure they meet the requirements of the new legislation. Updated rules for each mandate will be posted to the BCFIRB website early in fiscal year 2016/17. BCFIRB also updated and re-published its respective Practice Directives in 2015/16.

BCFIRB also monitored and supported federal legislative and regulatory initiatives, including a Farm Products Council of Canada review of orders issued under the federal *Agricultural Produce Marketing Act* to reduce regulatory burden while supporting the objectives of orderly marketing.

**Performance Measure 8: Demonstrated increased use of Alternative Dispute Resolution by marketing boards and commissions and the British Columbia Farm Industry Review Board.**

<b>Performance Measure</b>	<b>2014/15 Actual</b>	<b>2015/16 Actual</b>	<b>2016/17 Target</b>	<b>2017/18 Target</b>	<b>2018/19 Target</b>
ADR is used whenever appropriate	Met	Met	Whenever Appropriate	Whenever Appropriate	Whenever Appropriate

**Discussion**

BCFIRB is satisfied that whenever it was appropriate throughout 2015/16 it employed an ADR process in resolving inquiries, complaints and disputes. BCFIRB is also satisfied that boards and commissions continue to routinely use dispute prevention and resolution options as appropriate in their decision-making processes.