

**BC FARM INDUSTRY
REVIEW BOARD**

2018/19 Annual Report

December 2019

BC Farm Industry Review Board

Mailing Address:
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December 2019

Honourable Lana Popham
Minister of Agriculture
Parliament Buildings
Victoria, BC V8V 1X4

Dear Minister:

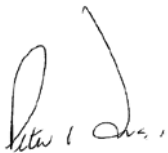
I respectfully submit the Annual Report for the British Columbia Farm Industry Review Board (BCFIRB) for the period April 1, 2018 through March 31, 2019, per section 59.2 of the *Administrative Tribunals Act*.

The 2018/19 fiscal year was very busy and both the Chair and the Vice-Chair of BCFIRB changed in November 2018. There were multiple appeals, complaints and complex supervisory matters, and BCFIRB initiated its Public Accountability and Reporting Project (PARP) with B.C.'s agricultural commodity boards and commissions. BCFIRB also held various meetings with the commodity boards and commissions, addressing multiple issues.

In February 2019, BCFIRB held a joint meeting with the Agricultural Land Commission (ALC). The meeting provided a valuable opportunity for both boards to discuss common issues and best practices, trends and challenges, along with strengthening board relationships. I am pleased with BCFIRB's accomplishments in meeting its statutory mandates, while continuing to work on improvements to service.

Looking ahead to 2019/20, BCFIRB will continue to work closely with the commodity boards and commissions. BCFIRB met in September 2019 to plan and implement strategies to enhance BCFIRB's effectiveness and to refine priorities. We also have complex supervisory matters underway involving a variety of sectors, which will require the provision of oversight and policy direction to the boards, to ensure sound marketing policy and the protection of the public interest.

Sincerely,



Peter Donkers, Chair
BC Farm Industry Review Board

Purpose of the BC Farm Industry Review Board

The British Columbia Farm Industry Review Board (BCFIRB) 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.'s regulated agricultural commodity boards and commissions, BCFIRB provides oversight, policy direction and decisions to protect the public interest. In its adjudicative capacities, BCFIRB provides a less formal system than the court for resolving disputes in a timely and cost-effective way. BCFIRB consists of a part-time board of up to ten members and nine full time staff, and is accountable to government for its administrative operations.

The BCFIRB 2018/19 Annual Report describes achievements and results met from April 1, 2018 to March 31, 2019.

BCFIRB's statutory responsibilities are established in the [*Natural Products Marketing \(B.C.\) Act \(NPMA\)*](#), the [*Farm Practices Protection \(Right to Farm\) Act \(FPPA\)*](#), and the [*Prevention of Cruelty to Animals Act \(PCAA\)*](#), and are supported by the [*Administrative Tribunals Act \(ATA\)*](#).

BCFIRB's mandated responsibilities are listed below:

- [General supervision](#) of B.C.'s regulated marketing boards and commissions.
- Signatory to formal [federal-provincial cooperation agreements](#) in regulated marketing.
- Hearing [appeals of regulated marketing](#) board and commission orders, decisions and determinations.
- Hearing [appeals related to certain animal custody and cost decisions](#) of the B.C. Society for the Prevention of Cruelty to Animals (BCSPCA).
- Hearing [farm practices complaints](#) from persons disturbed by odour, noise, dust or other disturbances arising from agriculture or certain aquaculture operations.
- Conducting [farm practices studies](#).

BCFIRB supervises the following B.C. regulated commodity boards and commissions.

[BC Broiler Hatching Egg Commission](#)

[BC Chicken Marketing Board](#)

[BC Cranberry Marketing Commission](#)

[BC Egg Marketing Board](#)

[BC Hog Marketing Commission](#)

[BC Milk Marketing Board](#)

[BC Turkey Marketing Board](#)

[BC Vegetable Marketing Commission](#)

BCFIRB is accountable to the Courts for its decisions (Judicial Review) and [the B.C. Ombudsperson](#) for its practices and procedures.

BCFIRB 2018/19 Results at a Glance

Goal 1: A regulated marketing system with effective self-governance.	Objective 1.1: BCFIRB and marketing boards and commissions practice good governance in their external and internal operations.	Performance Measure (PM) #1 Programs, policies and decisions reflect legislative intent, sound marketing policy and consider the public interest	Result Met
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		PM #2 BCFIRB expenditures meet budget targets	Result Met
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Goal 2: A principles-based, outcomes-oriented approach to regulation	Objective 2.1: BCFIRB and marketing boards and commissions use a principles-based approach to regulating.	PM #3 Outcomes are strategic, accountable, fair, effective, transparent and inclusive (show use of BCFIRB's SAFETI principles)	Result Met
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		PM #4 Orders, decisions & determinations are published promptly	Result Met
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Goal 3: Effective, fair and independent resolution of inquiries & disputes	Objective 3.1: Ensure issues and disputes arising within BCFIRB's jurisdiction are resolved in a fair and timely manner, including use of Alternative Dispute Resolution (ADR) methods where appropriate.	PM #5 Appeals and complaints are routinely handled within usual time periods established in BCFIRB's Practice Directives	Result Met
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Goal 1: A regulated marketing system with effective self-governance.

Objective 1.1 - BCFIRB 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, comply with legislation/regulations, and accord with sound marketing policy.
- Requiring boards to give consideration to the government policy framework and the public interest.
- BCFIRB provides 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, boards and commissions demonstrate that their programs, policies and decisions reflect legislative intent, sound marketing policy and consider the public interest.

2018/19 Results

BCFIRB worked with the eight commodity boards to finalize performance measures and data reporting criteria in the areas of sector performance targets, board governance and quota management and movement as part of the Public Accountability and Reporting Project (PARP). The first public reports were due to BCFIRB by June 2019, and can be found on [BCFIRB's website](#). BCFIRB took the information provided by the boards and summarized the information in a [PARP Summary Report](#).

All boards generally demonstrated that they are following regulatory requirements, using sound decision-making practices, and are using, or are in the process of adopting, good governance tools. BCFIRB will follow up with the boards on tools and processes that were not reported on or yet to be put in place.

BCFIRB worked with the supply-managed boards throughout 2018 to assist with the implementation of BCFIRB's February 2018 [Quota Assessment Tools Evaluation Supervisory Review](#) decision. All supply-managed boards have now implemented the new quota rules except for the BC Egg Marketing Board (EMB) that plans to implement them in January 2022, and the BC Broiler Hatching Egg Commission (BHEC) that is assessing options.

BCFIRB issued a supervisory review decision on the *Regulation of Specialty (Asian Breed) Hatching Egg Production* in July 2018. In fall 2018, BHEC provided BCFIRB with an update on audits of specialty hatching egg production (i.e., biosecurity), a condition of regulation. In early 2019, BHEC continued to focus on determining a strategic path forward for issuing condition-based transferable production permits for Asian hatching egg production as directed by BCFIRB.

On November 30, 2018, Canada, the United States (US) and Mexico signed the Canada-US-Mexico Agreement (CUSMA). Key concessions were made within the agreement involving the supply managed sectors, including market access, pricing for class 7 dairy ingredients and export thresholds and monitoring for dairy. BCFIRB received regular updates from the BC Milk Marketing Board (MMB) on its work with provincial and federal boards, agencies and processors to reach an alternative pricing mechanism to Class 7 in support of both Canadian dairy producers and processors. The next step is for each country to ratify the agreement according to their domestic processes, and timelines remain uncertain.

In relation to CUSMA and other recent trade agreements, BCFIRB helped support discussions between the Ministry of Agriculture and the supply managed boards to develop provincial input to Global Affairs Canada about the future distribution of Tariff Rate Quotas.

Finally, there was the successful completion of the regularly scheduled review of rules for the conduct of board elections. Regular review of this key governance tool not only supports a fair electoral process, but also promotes principles of inclusiveness, accountability and transparency.

Performance Measure 2:

BCFIRB and the boards and commissions it supervises exercise appropriate governance and fiscal procedures in exercising their mandates.

2018/19 Results

BCFIRB expended \$1.47 million in 2018/19. About \$790,000 of this amount was expended on operating costs, which include both contracted legal services and board member time and expenses. Just under \$680,000 was expended on public service staff salaries.

All commodity boards and commissions reported having audited financial statements in 2018, with most also reporting financial accountability frameworks and approved board member remuneration and internal financial policies and controls in place.

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 BCFIRB, 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 3:

BCFIRB and the boards and commissions demonstrate the application of the SAFETI principles (Strategic, Accountable, Fair, Effective, Transparent and Inclusive) in their programs, policies and decisions.

2018/19 Results

BCFIRB 2018/19 supervisory records demonstrated that there is progress being made on the implementation of the principles-based approach to regulation, including the use of the [SAFETI principles](#). Examples include:

The BC Broiler Hatching Egg Commission (BHEC)

- Worked with the Canadian Hatching Egg Producers and industry stakeholders to finalize a national auditable animal care program.
- Continued to review how much it generally costs B.C. farmers to produce hatching eggs (cost of production).
- Continued to work with the CMB to update the formula that aligns the price hatching egg producers receive for their chicks with the price chicken growers are paid for their chicken.

The BC Chicken Marketing Board (CMB)

- Continued to work with BC producers and the Chicken Farmers of Canada on the removal of antibiotics.
- Initiated an annual review of their pricing formula established in May 2017, and a revised formula was implemented in quota period A-151 (commencing July 3, 2018), which was appealed by processors and growers. BCFIRB held an appeal hearing in the fall of 2018 and a decision was released in May 2019.
- Poultry Boards continued to collaborate on a solution for supporting prompt return to business for the sectors in the event of an avian influenza outbreak without needing to access government funds.

The BC Cranberry Marketing Commission (CrMB)

- Reported a 57% increase in cranberry production in 2018 over 2017.
- Identified, along with industry, the need for ongoing research as critical to the long-term viability of the cranberry industry. The CrMB was involved in four projects in 2018.

The BC Egg Marketing Board (EMB)

- Updated its New Entrant Program, which included increased production opportunities for successful entrants.
- Received BCFIRB's prior approval for a multi-year quota allocation policy, after consultation with its supply chain and assessment of the future direction of the egg industry based on a SAFETI analysis.
- BCFIRB continues to coordinate with the EMB and the Ministry of Agriculture on the national process to update the Federal-Provincial Agreement for eggs.

The BC Hog Marketing Commission (HMC)

- Continued to work on ensuring all B.C. hog producers are fully compliant with the national Canadian Port Excellence program in support of product quality.

The BC Milk Marketing Board (MMB)

- Announced its revised New Entrant Program (NEP) in August 2018, which is intended to bring in new producers, promote innovation and support a sustainable dairy industry in B.C. The MMB received 95 applications and eight candidates were drawn in February 2019 to proceed to screening by a selection committee. In June 2019, three people were invited by the MMB to start dairy production.
- Identified that farm succession is broadening beyond family members. BCFIRB worked with the MMB to establish quota management tools to support farm succession through farm employees.

The BC Turkey Marketing Board (TMB)

- Supported a national Turkey Farmers of Canada marketing campaign focused on increasing turkey consumption.
- Started assessing self-marketer processing needs across the province to inform its new entrant program and industry needs and goals going forward.

The BC Vegetable Marketing Commission (VMC)

- Initiated a strategic planning process to rebuild a vision and develop a strategic plan for the B.C. vegetable industry.
- Initiated the process necessary to apply for a federal potato anti-dumping order which protects B.C.'s market.

BCFIRB posts [regulated marketing industry snapshots](#) that contain overviews of the regulated agricultural commodity sectors.

Further information about the sector performance targets established by the commodity boards and commissions, along with their accomplishments, can be found in their individual PARP reports on [BCFIRB's website](#), or BCFIRB's [PARP Summary Report](#).

Performance Measure 4:

BCFIRB orders, decisions, determinations, practices and procedures and other information are published promptly. Marketing board and commission orders, decisions and determinations are published promptly after being made in order to preserve rights of appeal under the NPMA.

2018/19 Results

BCFIRB 2018/19 administrative and supervisory records demonstrated publishing expectations were met. BCFIRB posted all of its complaints and appeals decisions to its website no later than seven days following all decisions made, as specified in its [Rules of Practice and Procedure](#). Supervisory decisions, all significant correspondence and all updates to policies and procedures were also published to BCFIRB's website in a timely fashion.

BCFIRB continues to be satisfied with the progress boards and commissions are making publishing orders, determinations, decisions and other information in a timely manner. Timely publication of decisions supports producer business planning and right of appeal to BCFIRB.

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, including use of Alternative Dispute Resolution methods where appropriate.

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 FPPA and appeals under the NPMA and PCAA.

Performance Measure 5:

BCFIRB reports on time from appeal or complaint filing to resolution, average costs per case, and user satisfaction for each of its statutory mandates and associated adjudicative processes.

2018/19 Results

In total BCFIRB administered 59 cases in 2018/19 (see Appendix One for detailed case list). Of these, 40 were resolved within the fiscal year, with 11 decided following a hearing and the other 29 dismissed or withdrawn.

Summary of BCFIRB’s appeals and complaints in 2018/19

2018/19 CASE STATUS	FPPA	NPMA	PCAA	TOTAL
Carried forward from 2017/18	18	12	1	31
New appeals/complaints in 2018/19	7	13	8	28
<i>Total appeals/ complaints in 2018/19</i>	25	25	9	59
Total appeals/complaints resolved in 2018/19	16	17	7	40
Total appeals carried forward to 2018/19	9	8	2	19

There is considerable cost variability from case to case. Cases resolved without a hearing typically range from about \$2,000-\$5,000, but can cost significantly more should the issues be complex. Cases resolved with a hearing in 2018/19 ranged significantly, with the average cost-per-case for the PCAA mandate being about \$11,000. Cases heard under the NPMA mandate ranged from about \$30,000 to \$100,000, while cases under the FPPA mandate cost about \$40,000.

In 2018/19, BCFIRB experienced very little Judicial Review (JR) activity at the B.C. Supreme Court. In 2018/19, BCFIRB was not aware of any complaints filed with the Ombudsperson regarding BCFIRB’s practices and procedures.

BCFIRB has published policy and procedure documents that set out the process, steps and timeframes associated with the filing and hearing of appeals and complaints under its different statutory mandates. In 2018/19, 73% of all cases that went to a formal hearing were decided within established timelines, with 100% of the animal custody appeals that went to hearing resolved within the established time period.

In March 2017, BCFIRB implemented a new user experience survey to gather feedback about the appeal and complaints process, website and staff response times. Feedback and suggestions for improvement are now routinely examined to help identify appropriate areas for service improvements.

BCFIRB in 2019/20

BCFIRB will be continuing to focus on transparency and accountability – both for itself and the commodity boards and commissions – through effective performance measures and public reporting.

A successful principles-based, outcomes-oriented approach to regulation is partly based on regular assessment and demonstration of board performance and outcomes. BCFIRB will be continuing to work with the commodity boards and commissions throughout 2019/20 in the spirit of continuous improvement. BCFIRB will discuss the PARP process and determine what may be helpful to streamline or improve future reporting cycles, with the next reports expected from the boards in June 2020.

Further information about BCFIRB may be found at:

<http://www2.gov.bc.ca/bcfarministryreviewboard>

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Facsimile: 250 356-5131

Email: firb@gov.bc.ca

Appendix One – BCFIRB Cases in 2018/19

Farm Practices Protection Act (FPPA) Cases 2018/2019	
Case Name	Decision
Kaye et al v Chang Yu Xu Issue: odour complaints filed against a cannabis operation in Chilliwack Kaye – filed March 14, 2017 De Vrij - filed March 14, 2017 Sterkenburg – filed March 14, 2017 Les – filed March 14, 2017 Eeltink – filed March 15, 2017 Breugem - filed March 15, 2017 Rozendall - filed March 15, 2017 Den Boer - filed March 15, 2017 Neels filed - March 15, 2017 Muxlow - filed March 15, 2017	Withdrawn
Learmonth v Coral Beach Farms – filed: March 9, 2017 Lewis v Coral Beach Farms filed: August 11, 2017 Issue: noise from helicopters on a cherry operation in Coldstream	Decision issued June 8, 2018
Hayden v Island Sea Farms – filed: November 20, 2017 Kemp v Island Sea Farms – filed: December 6, 2017 Issues: noise from an aquaculture operation on Cortez Island	Decision issued May 1, 2019
Bingley v Lang Vineyard – filed: January 11, 2018 Ward v Lang Vineyard – filed: January 11, 2018 Issue: noise from a chiller unit in Naramata	In process
Church v Cusheon Lake Farm – filed: January 15, 2018 Bird v Cusheon Lake Farm – filed: January 18, 2018 Issue: noise from barking dog on Ganges	Dismissal decision issued June 13, 2018
Pimiskern v McMeeken – filed: April 18, 2018 Issue: drainage issue from orchard replant in Kelowna	In process
Gardiner v Springbend Chicken Corp – filed: May 4, 2018 Issues: dust, odour from a poultry operation in Grindrod	In process
Bergen v Nguyen – filed: May 7, 2018 Werner v Nguyen – filed: May 9, 2018 Issue: odour from a cannabis operation in Abbotsford	Withdrawn March 15, 2019
Dreise v Canopy Growth – filed: July 11, 2018 Issue: odour from cannabis operation in Langley	In process
Tuovila v Deleurme – filed: November 20, 2018 Ruck v Deleurme – filed: November 29, 2018 Issues: odour, runoff, manure management on cattle operation in Kelowna	Decision due January 15, 2020

Prevention of Cruelty to Animals Act (PCAA) Cases 2018/2019	
Case Name	Decision
Baker v BC Society for Prevention of Cruelty to Animals (BCSPCA) – filed: March 7, 2018 Issue: seizure of 10 dogs	Decision issued April 16, 2018
Simkins v BCSPCA – filed: May 7, 2018 Issue: seizure of 2 dogs	Decision issued May 11, 2018
Szekely v BCSPCA – filed: July 18, 2018 Issue: seizure of 1 dog	Decision issued August 30, 2018
McGaffin v BCSPCA – filed: September 7, 2018 Issue: seizure of 5 dogs	Decision issued Oct 18, 2018
Child v BCSPCA – filed: October 3, 2018 Issue: seizure of 1 dog	Withdrawn October 18, 2019
Christopherson v BCSPCA – filed December 10, 2018 Issue: seizure of 1 dog	Withdrawn December 13, 2018
Bagga v BCSPCA – filed: December 21, 2018 Issue: seizure of 2 dogs	Decision issued February 5, 2019
Biliski v BCSPCA – filed: March 4, 2019 Issue: seizure of 1 dog	Decision issued April 10, 2019
Driediger v BCSPCA – filed: March 13, 2019 Issue: seizure of 13 dogs, 2 parrots	Decision issued April 24, 2019
Natural Products Marketing Act (NPMA) Cases 2018/2019	
Case Name	Decision
W. Friesen v BC Broiler Hatching Egg Commission (BCBHEC) Filed: August 29, 2016 Skye Hi Farms Inc. v BCBHEC – filed: August 29, 2016 Van Ginkel dba V3 Farms v BCBHEC – filed: August 29, 2016 Bradner Farms v BCBHEC – filed: September 9, 2016 Coastline Chicks v BCBHEC filed: September 9, 2016 Issue: quota allotment	Decision issued: August 16, 2018
Thomas Fresh v BC Vegetable Marketing Commission (BCVMC) Filed: November 7, 2018 Prokam v BCVMC filed: November 7, 2018 Thomas Fresh v BCVMC filed: January 4, 2018 Prokam v BCVMC filed: January 5, 2018 Issue: marketing and selling of potatoes, agency designation, licensing	Decision issued February 28, 2019
K & M Farms v BC Chicken Marketing Board (BCCMB) Filed: March 9, 2018 Issue: seasonal and per cycle production distribution	Decision issued May 17, 2019

Prokam v BCVMC – filed: March 21, 2018 Issues: agency designation	Withdrawn April 15, 2019
K & M Farms v BCCMB – filed: March 28, 2018 Issue: direct processing	Withdrawn July 9, 2018
Primary Poultry Processors Association of BC (PPPABC) v BCCMB – filed: May 16, 2018 Issue: mediation of price setting	Prelim Decision issued August 27, 2018
K & M Farms v BC Turkey Marketing Board (BCTMB) Filed: April 16, 2018 Issue: direct processing	Decision issued December 31, 2018
Vancouver Island Produce v BCVMC Filed: June 25, 2018 Issue: Amending Order 49 – new licensing category	Withdrawn June 10, 2019
Prokam v BCVMC – filed: June 25, 2018 Issue: Amending Order 49 – new licensing category	Withdrawn June 10, 2019
Thomas Fresh v BCVMC – filed: June 25, 2018 Issue: Amending Order 49 – new licensing category	Withdrawn June 10, 2019
BC Chicken Growers' Association (BCCGA) v BCCMB Filed: July 20, 2018 Issue: Pricing model	Decision issued May 16, 2019
PPPABC v BCCMB – filed: July 6, 2018 Issue: Pricing model	Decision issued May 16, 2019
RGR Produce v BCVMC – filed: August 7, 2018 Issue: Licensing	Withdrawn February 21, 2019
BCCGA v BCCMB– filed: September 14, 2018 Issue: Funding of feasibility study	Withdrawn November 14, 2018
Jaedel Enterprises v BCCMB – filed: September 12, 2019 Jaedel Enterprises v BCCMB – filed: September 12, 2019 Issue: Non compliance with Part 52 of General Orders	Withdrawn October 23, 2018
Outlander Poultry v BCCMB – filed: December 5, 2018 Issue: Unauthorized production	Withdrawn January 2, 2019
Cedar Creek Farms v BCCMB – filed: February 25, 2019 Issue: Restrictions on mainstream quota	Preliminary decision issued May 10, 2019