



BRITISH  
COLUMBIA

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**BC Farm Industry  
Review Board**

**ANNUAL REPORT**

**DECEMBER 2024**

## Message from the Chair

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I respectfully submit the Annual Report for the BC Farm Industry Review Board (BCFIRB) for the period April 1, 2023, through March 31, 2024, per section 59.2 of the *Administrative Tribunals Act*.

This was a memorable year for BCFIRB as it released its three-year Strategic Plan in January 2024. This Strategic Plan provides ongoing guidance to BCFIRB members and staff about its three-year (2024-2027) strategic priorities and the actions that BCFIRB will take to achieve these priorities. The strategic plan is also a communication tool for BCFIRB to support stakeholder and public understanding of the Board's vision, mandates, values, and strategic priorities. The Plan links to the overarching Annual Report goals and objectives which the Board will report on annually.

This year all eight regulated marketing commodities continued recovery efforts from ongoing environmental disasters. All sectors continued to experience challenges with market volatility brought on by the Covid-19 pandemic. The poultry sectors experienced continued challenges this year with Avian Influenza particularly in the Fraser Valley. As in past years, the hard work and exemplary collaboration of the supply managed boards and commissions and all key stakeholders was critical to response and recovery.

In November 2023, BCFIRB saw the departure of Vice Chair, Al Sakalauskas, and the appointment of new Vice Chair, Gunta Vitins. Al joined BCFIRB in 2016, was appointed as Vice Chair in 2018, and was a valued Board contributor, collaborator and leader. Gunta joined BCFIRB from her role as Chair of the BC Egg Marketing Board since 2017. Gunta brings over 30 years of expertise to BCFIRB in agrifood production, import/export, sales and marketing, and supply management and regulated marketing.

BCFIRB has an important quasi-judicial administrative tribunal role in managing process and making independent decisions on appeals and complaints under three statutes. In 2023-24, BCFIRB had 64 active appeals and complaints, 12 of which proceeded to formal hearing, and two of which were resolved through alternative dispute resolution.

BCFIRB has a principal oversight role as supervisor of BC's agriculture regulated marketing boards and commissions. In 2023-24, BCFIRB continued to meet regularly with the boards and commissions, the [National Association of Agri-Supervisory Agencies](#), and the [Farm Products Council of Canada](#). Support was provided to the Ministry of Agriculture and Food on various matters as was the exchange of information with regulated marketing sector stakeholders to support increased awareness and understanding of challenges and opportunities across the sector.

Significant events for BCFIRB in 2023-24 included the completion of the second phase of a supervisory review looking into the serious allegations of bad faith and unlawful activity made against the BC Vegetable Marketing Commission by two private companies. A key focus of the second phase was to determine what if any orders or

other direction BCFIRB would require in order in order to support the integrity and return to stability of BC's regulated marketing vegetable sector.

BCFIRB's long-term chicken pricing supervisory review, which began in 2020 in response to years of pricing challenges and uncertainty in BC's chicken sector, continued through 2023-24. In October 2023, BCFIRB received from the BC Chicken Marketing Board (BCCMB) their recommendation for long-term pricing. Following this, in November 2023, BCFIRB established an evaluation process which included receiving written submissions from industry participants on specific questions and issues identified by the BCFIRB Review Panel further to the BCCMB's recommendation. Due to confidentiality concerns from participants, the written submission process was not concluded until March 2024, followed by the BCCMB providing a response to participant submissions in April 2024. The submissions were reviewed by the Review Panel in its deliberations of a decision on BCCMB's long-term pricing recommendation.

In 2023-24, BCFIRB undertook a detailed reassessment of its August 2023 direction requiring commodity boards and commissions to establish policies and procedures for new Administrative Monetary Penalties. Following a period of constructive consultation with the boards and commissions, BCFIRB found the boards and commissions had established graduated enforcement tools that could readily and effectively support biosecurity risk management. BCFIRB's new approach focuses on annual compliance and enforcement results reporting by each board and commission to BCFIRB.

This year BCFIRB also began work to recreate its website, working with the Service BC Government Digital Experience Group (GDX) to conduct user research and learn what is working for BCFIRB's website and what is not. With expected GDX recommendations in late 2024, BCFIRB looks forward to creating a public-facing website to meet the needs of the many and different stakeholders it serves.

With my tenure as BCFIRB Chair ending on December 31, 2024, this is my final Annual Report to file on behalf of the Board. I have been privileged to lead and support BCFIRB in our adjudicative work, to meet the individuals that have interacted with and sought support from BCFIRB, and to work with the many agriculture organizations that play such a vital role in BC's agriculture regulated marketing sector.

On behalf of BCFIRB, I wish to extend a heartfelt thank you to all of the commodity boards and commissions and their staff, and very best wishes for 2025 and beyond.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Donkers', with a stylized flourish extending upwards and to the right.

Peter Donkers  
Chair  
BC Farm Industry Review Board

## Tribunal Team

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In 2023-24, BCFIRB had eight part-time members appointed by the Lieutenant Governor-in-Council. Members supervise, adjudicate and resolve disputes in the public interest under BCFIRB's four mandates. BCFIRB staff and contractors are an integral part of BCFIRB's professional team, supporting BCFIRB to the highest standards of integrity and accountability.

### STAFF

Executive Director and Registrar  
Martha Anslow

Board Services Coordinator  
Lisa Stride

Senior Manager, Sector Policy & Planning  
Olivia Mattan

Senior Manager, Sector Policy & Planning  
Justine Lafontaine

Policy Analyst  
Matthew Huijsmans

Policy Analyst  
Emma Strazhnik

Policy Officer (Co-op)  
Adeeb Noorani

Senior Case Manager  
Sara Thiesson

Case Manager  
Molly Gagne

Case Manager  
Erica Day

General Legal Counsel  
Christine Elsaesser  
Chris Wendell, Porter Ramsay

Administrative Law and Litigation Services  
Mark Underhill, Kate Phipps, Legal Team, Arvay Finlay

### MEMBERS

Chair  
Peter Donkers

Vice-Chair  
Al Sakalauskas  
(Retired November 2023)

Vice-Chair  
Gunta Vitins

Member  
Neil Turner

Member  
Wendy Holm

Member  
Pawan Joshi

Member  
Dennis Lapierre

Member  
Jane Pritchard

Member  
David Zirnhelt

Member Harveen Thauli  
(Retired July 2023)

## Purpose of the BC Farm Industry Review Board

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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 British Columbia's agricultural commodity boards and commissions, BCFIRB provides oversight, policy direction and decisions in the public interest. As an adjudicator, BCFIRB supports access to justice, providing a less formal system for resolving disputes than the court. BCFIRB currently consists of a part-time board of eight members and ten full-time staff, and is accountable to the Ministry of Agriculture and Food for its administrative operations.

The BCFIRB 2023-24 Annual Report describes achievements and results from April 1, 2023 to March 31, 2024.

BCFIRB's statutory responsibilities are established in the [\*Natural Products Marketing 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\*](#).

BCFIRB's mandated responsibilities include:

- General supervision of BC'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 animal seizure decisions of the BC 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 agricultural commodity boards and commissions, which are BC's 'first instance' regulators for their respective commodity:

[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 decisions may be judicially reviewed by, or appealed to, the Supreme Court of British Columbia. BCFIRB is accountable to BC's Office of the Ombudsperson for its processes and procedures.

## Overview of BCFIRB 2023-24 Goals & Priorities

The 2023-24 Annual Report includes BCFIRB [Strategic Plan 2024–2027](#) reporting for the first time. The Annual Report now connects BCFIRB’s overarching goals, objectives and performance measures to BCFIRB’s three-year strategic priorities and actions by which BCFIRB will measure progress and results.

GOALS	OBJECTIVES	MEASURING SUCCESS	STRATEGIC PRIORITIES
<b>Goal 1:</b> <b>A regulated marketing system with effective self-governance.</b>	<b>Objective 1.1:</b> BCFIRB and marketing boards and commissions practice good governance in their external and internal operations.	<b>Performance Measure (PM) #1</b>  BCFIRB and boards and commissions programs, policies and decisions show legislative intent, sound marketing policy and consider the public interest.  <b>PM #2</b>  Appropriate governance and fiscal procedures exercised.	<b>Strategic Priority 1:</b>  Ensure supervisory direction supports good governance by commodity boards and commissions
<b>Goal 2:</b> <b>A principles-based, outcomes-oriented approach to regulation</b>	<b>Objective 2.1:</b> BCFIRB and marketing boards and commissions use a principles-based approach to regulating.	<b>PM #3</b>  BCFIRB and boards and commissions demonstrate a sustainable principles-oriented approach to governance and regulation in their programs, policies and decisions.  <b>PM #4</b>  BCFIRB Orders, decisions & determinations are published publicly and promptly.	<b>Strategic Priority 2:</b>  Help to future proof the agriculture sector
<b>Goal 3:</b> <b>Effective, fair and independent resolution of inquiries &amp; disputes</b>	<b>Objective 3.1:</b> 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	<b>PM #5</b>  BCFIRB reports on updates, revisions and additions to practice directives, practices and procedures, and appeal and complaint cases, including on timeframes, costs, and user satisfaction.	<b>Strategic Priority 3:</b>  Review and improve BCFIRB processes and policies that support effective dispute resolution

# BCFIRB 2023-24 Performance Measures and Results

Goal 1:	Objective 1.1:	Performance Measure (PM) #1	Strategic Priority 1:
<b>A regulated marketing system with effective self-governance.</b>	BCFIRB and marketing boards and commissions practice good governance in their external and internal operations.	BCFIRB and boards and commissions programs, policies and decisions show legislative intent, sound marketing policy and consider the public interest.  <b>PM #2</b> Appropriate governance and fiscal procedures exercised.	Ensure supervisory direction supports good governance by commodity boards and commissions

## **Actions:**

- Review effectiveness of board and commission use of the SAFETI principles lens in decision-making.
- Require boards and commissions to report on compliance and enforcement of mandatory biosecurity programs.
- Continue to host bi-annual meetings with boards and commissions to identify best practices and support the work of BC's Centre for Organizational Governance in Agriculture.
- Continue to provide training and other professional development for BCFIRB members.

## **Other Strategies for Goal 1:**

- Ensuring that marketing board and commission activities and decisions are administratively fair, comply with legislation/regulations, and accord with sound marketing policy.
- 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 and Food, regulatory agencies at all levels, and stakeholders.

## **Performance Measure 1:**

*BCFIRB, and boards and commissions programs, policies and decisions reflect legislative intent, sound marketing policy and consider the public interest.*

## **2023-24 Results**

Since 2016, BCFIRB has directed the commodity boards and commissions to consistently show they are meeting their responsibilities as first instance regulators

through the use of principles-based regulation by applying SAFETI<sup>1</sup> in their decision-making and regulatory operations. The use of the SAEFTI principles is in the public interest and is in accordance with sound marketing policy. To assess commodity board and commission compliance with this expectation, BCFIRB staff reviewed all NMPA-related prior approval submissions from fiscal year between 2021-22 to 2023-24 to determine if SAFETI principles were used by the commodity boards and commissions in their submissions.

**Key Performance Indicator:** Percentage of prior approval submissions to BCFIRB from Boards and Commissions annually that include a SAFETI principles analysis (expectation is that 100% of submissions include a SAFETI principles analysis)

**Result:** 100% of the prior approval submissions from commodity boards and commissions included a SAFETI principles analysis and rationale.

To support greater transparency and accountability around biosecurity compliance and enforcement, BCFIRB in its [August 2023 Administrative Monetary Penalties](#) decision directed all eight regulated commodity boards and commissions to report on publicly published criteria from compliance and enforcement policies and procedures annually through the Public Accountability and Reporting Program (PARP). This includes information on the mandatory biosecurity programs, number and type of farms audited, auditors, number of corrective actions, number of infractions, and enforcement actions taken if any. In the winter of 2023, the boards and commissions provided their compliance and enforcement data to BCFIRB for inclusion in the [2022 PARP Report](#).

**Key Performance Indicator:** Percentage of Boards and Commissions providing annual compliance and enforcement reporting in PARP (expectation is that 100% report annually in PARP)

**Result:** 100% of commodity boards and commissions provided compliance and enforcement reporting for the 2022 PARP Report.

In its supervisory capacity, BCFIRB's Chair, members and staff met with commodity board and commission chairs, board members and staff on key files and issues throughout 2023-24. BCFIRB provided supervisory intervention when necessary in various sectors (e.g., chicken, broiler hatching eggs, vegetables, and dairy). Details on all supervisory reviews, past and present, along with all BCFIRB supervisory decisions, can be found on [BCFIRB's website](#).

**Key Performance Indicator:** Number of BCFIRB meetings held annually with Boards and Commissions (expectation is that a minimum of two BCFIRB meetings are held annually with Boards/Commissions (e.g., Chairs meeting; Board to Board meetings)

**Result:** BCFIRB attended eight meetings with commodity boards and commissions in 2023-24.

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<sup>1</sup> [Strategic Accountable Fair Effective Transparent and Inclusive](#)



Ongoing training and professional development are essential for BCFIRB members to continue to learn and grow in knowledge and professional skills as Board members and independent adjudicators. All BCFIRB members must complete certain courses offered by the BC Council of Administrative Tribunals (BCCAT). Board members can also participate in other courses and professional development opportunities, such as workshops and knowledge transfer events, including commodity Board and Commission annual general meetings, and producer meetings. In 2023-24, BCFIRB members completed mandatory BCCAT courses on decision writing, hearing skills, and practice and procedures for decision makers, and other tribunal learning around Indigenous legal systems, economic outlook of the agriculture sector, and Board and Commission annual general meetings and producer meetings.

**Key Performance Indicator:** Number of mandatory training and other training and professional development sessions (workshops, knowledge transfer opportunities, etc.) completed by BCFIRB members annually (expectation is that 100% of BCFIRB members have completed the three mandatory BCCAT training courses by the end of their first two years and that after their first year every member has attended at least two other training and professional development sessions annually)

**Result:** 100% of BCFIRB members have met the requirements for both mandatory training and additional training

### ***Other Results***

BCFIRB held ten full board meetings between April 1, 2023, and March 31, 2024. Minutes were taken and all necessary member recusals from board discussions were documented, per BCFIRB's [Code of Conduct](#). BCFIRB is mandated to supervise and provide policy direction to the commodity boards and commissions to ensure sound marketing policy and to protect the public interest.

BCFIRB receives and reviews meeting minutes, correspondence and board and commission submissions and decisions, to monitor how boards and commissions are demonstrating that their programs, policies and decisions are in accord with legislative intent and sound marketing policy in the public interest. BCFIRB communicated with boards and commissions regarding supervisory matters that affected them, or necessitated BCFIRB's involvement and/or approval.

BC's regulated marketing system is a government-legislated system that provides for the orderly production and marketing of certain agricultural commodities. Agricultural commodity boards and commissions regulate each of these sectors.

BCFIRB's supervisory role enables it to review, oversee and, where deemed necessary and appropriate, give direction to boards and commissions. This proactive role is complementary to BCFIRB's appeal role.

Under the *Natural Products Marketing (BC) Act*, BCFIRB may exercise its general supervisory powers at any time, with or without a hearing, and in the manner it considers appropriate, in the circumstances. BCFIRB's supervisory role has been interpreted in several landmark court decisions.

BCFIRB also ensured that any parties affected by a supervisory matter were involved as appropriate, usually by a board or commission directly.

BCFIRB supported the Ministry of Agriculture and Food as appropriate, in its capacity as an independent administrative tribunal, and meetings were held between the BCFIRB Chair and Executive Director with the Minister and ministry staff.

## **Goal 1: Highlights of BCFIRB's 2023-24 Supervisory Activities**

### ***Review of Allegations of Bad Faith and Unlawful Activities – BC Vegetable Marketing Commission***

In March 2024, BCFIRB concluded Phase II of a supervisory review which began in May 2021 when BCFIRB initiated investigations into serious allegations of bad faith and unlawful activity made against certain members and staff of the BC Vegetable Marketing Commission.

The purpose of the Phase II was to determine whether the allegations were advanced in bad faith or for strategic or ulterior purposes, and what orders or directions BCFIRB has the authority to make and are necessary to restore orderly marketing, trust and confidence in the BC regulated vegetable industry. Based on all the evidence, BCFIRB concluded in the [Phase II Decision](#) that the allegations were advanced and maintained in bad faith in the sense that it was reckless with respect to the truth of its allegations. BCFIRB issued several directions in order to restore trust and confidence in the industry.

### ***Chicken Sector Pricing Review – BC Chicken Marketing Board and BC Broiler Hatching Egg Commission***

BCFIRB's [supervisory review of long-term chicken pricing](#), which began in 2020, continued in 2023-24. In October 2023, BCFIRB received the BC Chicken Marketing Board's long-term cost of production pricing proposal, developed through a four-year process that included stakeholder engagement and issues resolution. In November 2023, BCFIRB established an evaluation process which included receiving written submissions from eligible participants on specific questions and issues the BCFIRB Panel identified from BCCMB's recommendation. Due to confidentiality concerns from participants, the written submission process completed in March 2024, with BCCMB providing its response to participants submissions in April 2024. The submissions were reviewed by the Review Panel in their deliberations for a decision of BCCMB's long-term pricing recommendation.

### ***Egg Federal Provincial Territorial Agreement***

In 2023-24, BCFIRB continued to work with the BC Egg Board and the BC Ministry of Agriculture and Food to review proposed changes to the existing Federal-Provincial-Territorial Agreement on Guiding Principles for the Marketing of Eggs in Canada (Egg FPTA), and provided substantive feedback directly to Egg Farmers of Canada. The proposed changes to the Egg FPTA will streamline and modernize the framework for

eggs in Canada. The new Agreement was signed by BCFIRB in October 2023 and was finalized by all signatories later in 2024.

### ***Public Accountability and Reporting Program***

In August 2023, BCFIRB [directed increased reporting for New Entrant Programs \(NEP\)](#) from the supply-managed commodity boards and commissions. The direction noted that the boards and commissions will report on NEP goals and objectives in future BCFIRB [Public Accountability and Reporting Program \(PARP\) summary reports](#).

BCFIRB's PARP initiated in March 2018, supports and reports on the effective governance and leadership of BC's regulated agriculture sectors. The PARP has a different focus from the information boards and commissions provide to their sectors and stakeholders in their annual reports. Good governance and informed decision-making ensure sound marketing policy outcomes in the public interest.

In addition to providing further NEP data, boards and commissions reported to BCFIRB on their key performance targets and progress in meeting their goals. Data on production volume, types of commodities being produced, region of production and sizes of producers provides information to the public, helps the boards and commissions demonstrate good governance, and helps BCFIRB demonstrate effective supervisory leadership that supports orderly marketing in the public interest.

### **Performance Measure 2:**

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

### ***Other Results***

BCFIRB received a working budget of \$1.427M in 2023-24. Total spending by BCFIRB with adjustments after accruals for 2023-24 was \$1.928M, with \$1.015M spent on operating costs including tribunal member per diems and expenses, professional advisory services, travel, Board general and office expenses, and \$.913M spent on public service staff salaries and benefits.

All commodity boards and commissions reported having audited financial statements in 2023-24, with most also reporting financial accountability frameworks and approved board member remuneration and internal financial policies and controls in place.

All boards and commissions reported on a series of governance measures in their PARP reports. In addition to financial accountability, measures included planning and reporting, performance evaluation, accountability and transparency around rules, operational policies and decisions, management of conflict of interest and stakeholder consultation.

<b>Goal 2:</b>	<b>Objective 2.1:</b>	<b>PM #3</b>	<b>Strategic Priority 2:</b>
<b>A principles-based, outcomes-oriented approach to regulation</b>	BCFIRB and marketing boards and commissions use a principles-based approach to regulating.	BCFIRB and boards and commissions demonstrate a sustainable principles-oriented approach to governance and regulation in their programs, policies and decisions.	Help to future proof the agriculture sector
		<b>PM #4</b>	
		BCFIRB Orders, decisions & determinations are published publicly and promptly.	

### **Actions:**

- Review board and commission new entrant programs and quota exchange policies to ensure they are accessible, reflect SAFETI principles, and support succession planning and future-focused quota management (i.e., established quota exchange).
- Require boards and commissions to build and implement Administrative Monetary Penalties (AMPs) as tools to assist and improve biosecurity.
- Continue to forge strong relationships with federal and provincial bodies and other regulated marketing partners to support proactive collaboration and responsiveness to sector challenges and new opportunities.
- Meet with the BC Indigenous Advisory Council on Agriculture and Food to better understand economic interests of Indigenous peoples/communities across regulated agriculture commodities.
- Recommend the BC Ministry of Agriculture and Food review the 2004 Regulated Marketing Economic Policy to consider new factors and challenges such as disease and biosecurity, climate change and disaster events, food security, Indigenous reconciliation, and BC's agricultural land reserve

### **Other Strategies for Goal 2:**

- Working with boards and commissions to continue 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 provincial interests at federal and provincial levels, including requiring boards to consider the government policy framework and the public interest.

### **Performance Measure 3:**

*BCFIRB and the boards and commissions demonstrate a sustainable principles oriented approach to governance and regulation in their programs, policies and decisions.*

## **2023-24 Results**

In 2023-24, BCFIRB continued to forge strong relationships with federal and provincial bodies including engagement with the National Association of Agri-Supervisory Agencies (NAASA) and the Farm Products Council of Canada (FPCC). These meetings provide an important opportunity for BCFIRB to learn and share information with federal counterparts on opportunities and challenges that regulated commodities face in BC. In 2023-24, BCFIRB attended 4 meetings with NAASA and 1 meeting with FPCC.

**Key Performance Indicator:** BCFIRB attends 100% of annual meetings with NAASA, FPCC, and other federal provincial partners we are invited to.

**Result:** BCFIRB attended 100% of NAASA, FPCC, and other counterpart meetings BCFIRB was invited to.

### ***Other Results***

Progress continues to be made on the application of SAFETI principles in board and commission operations and decision-making. [BCFIRB implemented the SAFETI principles in June 2016](#), after a five-year development and consultation process with the boards and commissions, the Ministry of Agriculture and Food and other stakeholders.

<b><i>Principle</i></b>	<b><i>Description</i></b>
Strategic	Identifying key opportunities and systemic challenges, and planning for actions to effectively manage risks and take advantage of future opportunities.
Accountable	Maintaining legitimacy and integrity through understanding and discharging responsibilities and reporting performance.
Fair	Ensuring procedural fairness in processes and decision-making.
Effective	Ensuring clearly defined outcomes with appropriate processes and measures.
Transparent	Ensuring that processes, practices, procedures, and reporting on how the mandate is exercised are open, accessible and fully informed.
Inclusive	Ensuring that appropriate interests, including the public interest, are considered.

Boards and commissions included SAFETI analyses in their 2023-24 decisions and submissions to BCFIRB (see KPI page 8) demonstrating that these principles are now part of BC's regulated marketing sector culture. Boards and commissions have noted the value of SAFETI principles as a useful analytical policy lens and tool.

### **Performance Measure 4:**

*BCFIRB orders, decisions, determinations, practices and procedures and other information are published publicly and 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.*

### ***Other Results***

BCFIRB 2023-24 administrative and supervisory records demonstrated that publishing expectations were met. BCFIRB posted all of its appeals and complaints decisions to its

website within timelines established under BCFIRB's Rules of Practice and Procedures for each BCFIRB mandate.

Supervisory decisions, all significant correspondence and all updates to policies and procedures were also published on BCFIRB's website in a timely fashion.

BCFIRB continues to be satisfied with board and commission publishing of orders, determinations, decisions and other information in a timely manner. Timely publication of decisions supports orderly marketing and the right of appeal to BCFIRB.

<b>Goal 3:</b> <b>Effective, fair and independent resolution of inquiries &amp; disputes</b>	<b>Objective 3.1:</b> 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	<b>PM #5</b> BCFIRB reports on updates, revisions and additions to practice directives, practices and procedures, and appeal and complaint cases, including on timeframes, costs, and user satisfaction.	<b>Strategic Priority 3:</b> Review and improve BCFIRB processes and policies that support effective dispute resolution
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### **Actions:**

- Review the comprehensiveness and effectiveness of BCFIRB's practice directives, and policies of practice and procedure, for each adjudicative mandate, including a 10-year retrospective review of BCFIRB's mandate under the PCAA.
- Continue to actively implement access to justice principles in how BCFIRB provides information and guidance to appellants, complainants and other affected parties.

### **Other Strategies for Goal 3:**

- Continue using supervisory processes, and farm practice studies as necessary, to help prevent and resolve disputes.
- Continue 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 updates, revisions, and additions to practice directives, practices and procedures and appeal or complaint cases, including on timeframes, costs, and user satisfaction for each of its statutory mandates and associated adjudicative processes.*

### **2023-24 Results**

This year BCFIRB also kicked off work to recreate our website. Over the past year, BCFIRB has worked with the Service BC Government Digital Experience Group to conduct user research to discover what is currently working and what's not working on



our website. This work will support BCFIRB in actively implementing access to justice principles in how BCFIRB provides information and guidance to appellants, complainants and other affected parties. The Service BC Government Digital Experience Group is anticipated to provide recommendations for a new website to BCFIRB later in 2024, and we look forward to creating a user focused website that better meets user needs.

### ***Other Results***

In total BCFIRB administered 64 cases in 2023-24 (please see Appendix for a detailed case list). Of these, 27 were resolved within the fiscal year, 12 were decided following a hearing, two were settled through BCFIRB's alternative dispute resolution (ADR) settlement process, 12 were withdrawn, and one was dismissed.

#### **Summary of BCFIRB's Appeals and Complaints in 2023-24**

<b>2023-24 CASES</b>	<b>FPPA</b>	<b>NPMA</b>	<b>PCAA</b>	<b>TOTAL</b>
Carried forward from 2022-23	5	24	2	31
New appeals/complaints in 2023-24	10	8	15	33
<b>Total appeals/ complaints in 2023-24</b>	<b>15</b>	<b>32</b>	<b>17</b>	<b>64</b>
Total appeals/complaints resolved in 2023-24	5	7	15	27
Total carried forward to 2023-24	10	25	2	37

There is considerable cost variability from case to case due to complexity and the time required for panel members, staff and legal counsel. There were 15 cases resolved in 2023-24 without a hearing ranging in cost from \$200-\$13,000. Cases resolved with a hearing ranged significantly in cost. The average cost-per-case for the PCAA mandate was \$14,000 in 2023-24 with nine cases resolved, while the NPMA mandate total cost was \$58,000 with three cases resolved, and no cases under the FPPA mandate were resolved with a hearing.

In 2023-24, there were three judicial reviews (JRs) of BCFIRB appeal and complaint decisions filed with the Supreme Court of British Columbia. All three JRs were of PCAA decisions, and all are continuing into 2024-25. The average cost of thee JRs in 2023-24 to date is \$8,000.

BCFIRB has published policy and procedure documents that set out the process, steps, and timelines associated with the filing and hearing of appeals and complaints under its different statutory mandates.

BCFIRB continues to gather feedback through a user response survey regarding the appeal and complaints process, the BCFIRB website, and staff response times. Feedback and suggestions for improvement are now routinely examined to help identify appropriate areas for service improvements.

## BCFIRB Case Highlights 2023-24

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### ***Farm Practices Protection (Right to Farm) Act (FPPA):*** **Butler v Jealous Fruits**

This case involved a complaint filed with BCFIRB under the FPPA on November 22, 2022, from a Complainant aggrieved by noise from frost fans that were used to dry cherries on a neighbouring farm owned and operated by Jealous Fruits Ltd.

On March 7, 2023, a site visit was conducted at the Complainant and Respondent properties by BCFIRB case management staff, and a Knowledgeable Person (KP) from the Ministry of Agriculture and Food. A report from the KP was produced on June 2, 2023 with respect to the site visit, and presented to BCFIRB and both parties.

An FPPA complaint involves a two-step analysis. First, the BCFIRB hearing panel must be satisfied that the complainant is aggrieved by odour, dust, noise or some other disturbance emanating from a farm operation, and second, that the disturbance results from a farm practice conducted as part of a farm operation. If so, the panel must then make a determination about whether the grievance results from a “normal farm practice”. BCFIRB works with parties throughout the complaint process to help resolve these disputes wherever possible.

The KP Report highlighted the common use of frost fans in the Okanagan region to protect cherry buds from low temperatures which can cause frost damage. Frost damage during cherry bud development can significantly reduce crop yields. The KP Report also examined setback distances on similar farms using similar practices and found the setback between the Complainant and Respondent properties to exceed all comparative farm setbacks. The report concluded that Jealous Fruits’ use of the frost fans was consistent with or exceeded practices used by similar farms under similar circumstances.

In a phone conversation with the Complainant regarding the report findings, he stated that if the use of fans was found to be standard practice for frost mitigation and that Jealous Fruits was using them to high industry standards that he would be happy to withdraw his complaint. On July 19, 2023, the Complainant confirmed the withdrawal of his complaint via email, and on July 27, 2023, BCFIRB issued a dismissal order.

The FPPA gives farmers who are following ‘normal farm practices’ and not contravening land use regulations, health and environmental legislation, protections from certain bylaw enforcement, court injunctions and nuisance lawsuits. While BCFIRB supports efforts by parties to work together to mitigate impacts from farm practice complaints where possible, the FPPA also creates an expectation that farmers take reasonable steps where appropriate to mitigate the impacts of their farm practices on neighbours. The FPPA serves to protect the operational and economic viability of farm practices in BC.



## ***Prevention of Cruelty to Animals Act (PCAA):*** ***Kendall & Kendall v BCSPCA***

This was an appeal of a November 29, 2023 Review Decision of the British Columbia Society for the Prevention of Cruelty to Animals (BCSPCA) related to the seizure of 13 dogs, 3 cats 14 goats, 31 chickens on October 31, 2023 and the seizure of 1 dog, 1 cat, 2 snakes, 1 rabbit, 28 chickens, 4 ducks, 31 quail and 48 rats on November 16, 2023. The BCSPCA has the authority under the Prevention of Cruelty to Animals Act (PCAA) to take any action it considers necessary to relieve animals in distress, including taking custody of the animals and arranging for food, water, shelter, and veterinary treatment if necessary.

The Appellants filed their appeal on December 5, 2023 with the BCFIRB panel holding a hearing via teleconference with the parties on January 8, 2024.

In this case, the Appellants initially challenged the validity of the search warrants that were issued to the BCSPCA by the Provincial Court on the basis that they were obtained through means of inaccurate information. BCFIRB does not have the jurisdiction nor the authority under the PCAA to amend a warrant that is issued by the provincial courts, therefore the Panel confirmed that it is not their role to address the validity of these warrants.

The Appellants alleged they ran a hobby farm in Ladysmith, and many of the animal products were utilized for personal use, apart from occasional egg sales. The evidence in this case presented otherwise and the Panel noted the fact that all the animals on the

Per the definition in the PCAA, an animal is in distress if it is:

- (a) Deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,
  - (a.1) kept in conditions that are unsanitary
  - (a.2) not protected from excessive heat or cold
- (b) injured, sick, in pain or suffering, or
- (c) abused or neglected.

“hobby farm” were intact, which suggested to the Panel that the Appellants breed and sell animals as a commercial enterprise to support themselves.

The Panel considered all evidence and documents before them. They concluded from the evidence presented by witnesses and veterinary experts that there was an insufficient level of veterinary care present, lack of safe shelter and an overall lack of adequate daily care. The neglect of the animals was variable, and some could be seen in

good condition, while others were emaciated and suffering critical distress. However, the uncertainty was due to the large number of animals and that the Appellants were unable to care for all of the animals adequately. The Panel deemed the animals were determined to be in distress at the time of seizure, and it is in their best interest to remain in the care of Society apart from the two snakes, which were returned to the Appellants.

***Natural Products Marketing Act (NPMA):***  
**B & L Poultry Ltd. v BC Chicken Marketing Board**

The Appellant, a commercial chicken grower, is appealing a decision made by the BC Chicken Marketing Board (Chicken Board) on June 16, 2023, to deny relief from an overproduction levy assessed against the Appellant for quota production period A180. A standard quota production period is 8 weeks or 56 days, however the Chicken Board, in its discretion, may permit a cycle length of up to twelve weeks. Growers apply to the Chicken Board for an allotment in each quota production period and where a grower produces more kilograms than their allotment there may be restrictions and penalties.

The Appellant received a total allotment of 78,998 kg from the Chicken Board for the A180 Period (December 18, 2022 – February 11, 2023). However, the Appellant produced a total of 91,843 kg for the A180 Period which was 114.65% of the total allotment issued to the Appellant for the period.

On April 14, 2023, the Appellant received their quota production update which showed an overproduction levy of \$4,006.00 as penalty for overproduction in the A180 Period, and on April 27, 2023, the Appellant requested the Chicken Board reconsider the levy for that production period due to exceptional circumstances.

On June 16, 2023, the Chicken Board denied a request of B & L Poultry Ltd for relief from the levy and noted that overproduction levies are consistent with sound marketing policy.

Under the *NPMA*, the Chicken Board is established by the BC Chicken Marketing Scheme to provide for effective promotion, control and regulation of chicken production, transportation, processing, packing, storage and marketing within BC. Under the Scheme, the Chicken Board has broad powers which it exercises through its General Orders. In addition to setting rules for quota, permits and licenses, the Chicken Board may refuse to allot a quota, or reduce, refuse to increase, or cancel a quota allotted to a grower who fails to comply with or has contravened any provision of the *NPMA*, the Scheme, the Chicken Board's General Orders, orders or direction of the BC Farm Industry Review Board, or any other order or direction of the Chicken Board.

The BCFIRB panel considered submissions from the parties and determined that the Appellant's overproduction in the A180 allocation period occurred because the chicks that it produced were heavier than was contemplated under their contract and the overproduction was not a situation that arose directly due to any exceptional circumstances in the industry at the time. The appeal was dismissed.

***For more information about BCFIRB, please  
visit:***

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## Appendix – BCFIRB Cases in 2023-24

<b><i>Farm Practices Protection (Right to Farm) Act: Cases 2023-24</i></b>	
<b>Case Name</b>	<b>Decision</b>
Cowichan Station Creamery v San Sujo Farm – filed November 17, 2021 Issue: Inadequate fencing	Withdrawn: September 9, 2023
Bal dba Valley Orchards v Frind Estate Winery – filed March 22, 2022 Issue: Run off water	Settled: April 18, 2023
Schreiber v Bonnett – filed July 26, 2022 Issue: Noise from propane cannon	Settled: May 12, 2023
Cunningham v Seva Industrial Hemp Farm – filed November 15, 2022 Issue: Odour from field grown cannabis	Withdrawn: April 18, 2023
Butler v Jealous Fruits – filed November 22, 2022 Issue: Noise from a frost fan	Withdrawn: July 27, 2023
Fleishman v Frind Estate Winery – filed June 22, 2023 Hoffman v Frind Estate Winery – filed July 19, 2023 Hrebicek v Frind Estate Winery – filed July 18, 2023 Lawrie v Frind Estate Winery – filed July 24, 2023 Issue: Noise from a chiller unit	In process
McMillan v Bonnett – filed September 5, 2023 Champagne v Bonnett – filed September 19, 2023 Schreiber v Bonnett – filed October 5, 2023 Issue: Noise from a propane cannon	In process
Neveaux v Twoten Resources Ltd – filed November 7, 2023 Stevens v Twoten Resources Ltd – filed November 8, 2023 Issue: Flooding	In process
Phipps v Majestic View Farm – filed February 28, 2024 Issue: Noise from a propane cannon	In process

<b><i>Prevention of Cruelty to Animals Act: Cases 2023-24</i></b>	
<b>Case Name</b>	<b>Decision</b>
Sarkozi v BCSPCA – filed February 21, 2023 Seizure: 2 horses	Decision: April 3, 2023
Martin v BCSPCA – filed March 13, 2023 Seizure: 2 goats	Decision: April 25, 2023
Allen v BCSPCA – filed May 17, 2023 Seizure: 4 horses	Withdrawn: June 12, 2023
Bowen v BCSPCA – filed July 28, 2023 Seizure: 1 dog	Decision: September 12, 2023

Leduc v BCSPCA – filed August 16, 2023 Seizure: 1 dog	Decision: September 26, 2023
Martinez & Martinez v BCSPCA – filed August 29, 2023 Seizure: 11 dogs, 3 cats, 7 birds, 8 rats, 8 aquatics species of fish, shrimp and invertebrates	Decision: October 11, 2023
Wooden v BCSPCA – filed on September 27, 2023 Seizure: 11 dogs, 1 puppy	Withdrawn: October 10, 2023
Peat v BCSPCA – filed on October 3, 2023 Seizure: 2 dogs, 2 kittens	Withdrawn: October 20, 2023
Cole v BCSPCA – filed on October 12, 2023 Seizure: 1 dog	Decision: November 23, 2023
Irving v BCSPCA – filed on November 8, 2022 Seizure: 9 dogs, 2 cats, 9 puppies	Decision: December 20, 2023
Kendall & Kendall v BCSPCA – filed December 5, 2023 Seizure: 13 dogs, 3 cats, 14 goats, 31 chickens and 1 dog, 1 cat, 2 snakes, 1 rabbit, 28 chickens, 4 ducks, 31 quail and 48 rats	Decision: January 26, 2024
Krug v BCSPCA – filed December 22, 2023 Seizure: 3 dogs	Decision: February 6, 2024
Croteau v BCSPCA – filed January 9, 2024 Seizure: 1 dog	Withdrawn: February 8, 2024
Mathews & Mathews v BCSPCA – filed January 15, 2024 Seizure: 2 dogs	Withdrawn: January 24, 2024
Crampton v BCSPCA – filed January 15, 2024 Seizure: 2 dogs, 2 cats	Withdrawn: February 8, 2024
Zhang v BCSPCA – filed March 20, 2024 Seizure: 2 dogs	In process
St. Pierre v BCSPCA – filed March 28, 2024 Seizure: 1 dog	In process

<b>Natural Products Marketing (BC) Act: Cases 2023-24</b>	
<b>Case Name</b>	<b>Decision</b>
Prokam Enterprises v BCVMC – filed November 26, 2019 Issue: Unfair process for reconsideration decision	Supervisory: November 2, 2021
PPPABC v BCBHEC – filed December 24, 2019 BCCGA v BCHEC – filed December 31, 2019 Issue: Adjustment to price linkage formula	Supervisory: February 25, 2020
PPPABC v BCBHEC – filed May 10, 2021 Issue: Chicken pricing order	Supervisory: May 18, 2021

PPPABC v BCCMB – filed June 24, 2021 Issue: Chicken pricing order	Supervisory: July 6, 2021
PPPABC v BCCMB – filed August 25, 2021 Issue: Chicken pricing order	Supervisory: August 31, 2021
PPPABC v BCCMB – filed October 25, 2021 Issue: Chicken pricing order	Supervisory: November 2, 2021
BCCGA v BCCMB – filed December 15, 2021 Issue: Chicken pricing order	Supervisory: January 21, 2022
PPPABC v BCCMB – filed December 17, 2021 Issue: Chicken pricing order	Supervisory: January 21, 2022
GGFI and Windset Farms v BCVMC – filed February 9, 2022 Aljane Farms v BCVMC – filed February 8, 2022 Sunnyside Produce Ltd. v BCVMC – filed February 8, 2022 VF Operations Canada Inc. v BCVMC – filed February 3, 2022 Westcoast Vegetables Ltd. v BCVMC – filed February 11, 2022 Peppertree Farms Ltd. v BCVMC – filed February 8, 2022 Greenhouse Delight Foods Inc. v BCVMC – filed February 8, 2022 Canadian Valley Growers Veg Products Ltd. v BCVMC – filed February 11, 2022 Cheam View Greenhouse v BCVMC – filed February 11, 2022 Mt. Lehman Greenhouses v BCVMC – filed February 18, 2022 MB Greenhouse v BCVMC – filed February 11, 2022 Uppal Farms and Greenhouses v BCVMC – filed February 11, 2022 Issue: Decision to designate MPL BC as an Agency	Supervisory: March 21, 2022
PPPABC v BCCMB – filed February 16, 2022 Issue: Chicken pricing order	Supervisory: February 25, 2022
CFP Marketing Corporation v BCVMC – May 16, 2022 Issue: Decision to not designate CFP as an agency	In process
Global Greenhouse Produce Inc v BCVMC – filed February 10, 2023 Issue: Decision imposing conditions on agency license	Withdrawn: August 11, 2023
K&M Farms v BCTMB – filed June 16, 2023 Issue: Decision to deny request of “custom kill priority days”	Decision: March 5, 2024
Bren-Den Ventures Ltd. V BCEMB – filed June 21, 2023 Issue: Going Concern Quota transfer decision	Decision: February 8, 2024
B & L Poultry Ltd. V BCCMB – filed July 13, 2023 Issue: Decision to deny relief for over marketing levy	Decision: January 16, 2024
K & M Farms v BCCMB – filed August 8, 2023 Issue: Decision to deny a request to grow pasture production on leased land	Dismissed: August 6, 2024
Paragon Farms v BCEMB – filed August 23, 2023 Issue: Decision to deny a request to moult a flock for realignment as a result of HPIA	Withdrawn: December 11, 2023

Regier Properties Ltd. v BCBHEC – filed November 6, 2023 Issue: Decision denying a request to regrow a portion of the leased quota	Dismissed: January 19, 2024
Island Milk Producers Organization v BCMMB – filed November 16, 2023 Issue: No appealable issue	Dismissed: May 16, 2024
Red Sun Farms v BCVMC – filed December 7, 2023 Issue: Decision denying an Order to designate as an agency	Withdrawn: February 27, 2024