

Chapter 4

Department of Agriculture, Aquaculture and Fisheries

Agricultural Fair Associations

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Department of Agriculture, Aquaculture and Fisheries

Agricultural Fair Associations

Introduction

- 4.1** In August of 2013, the Auditor General of New Brunswick received a letter from a concerned stakeholder regarding the governance of an agricultural fair association operating in the Province.
- 4.2** The letter referred to several issues of concern to the author, including:
- changes to share structure and governance practices resulting in concentrated ownership by a related group of individuals;
 - operation as a private company under the *Business Corporations Act* of New Brunswick “contrary to the company founding charter”; and
 - potential loss of not-for-profit status and the associated exemptions from taxation.
- 4.3** After discussing the contents of the letter with the author and reviewing the history of agricultural societies and associations, we completed a preliminary scoping exercise by reviewing relevant legislation and discussing oversight of agricultural associations with various government officials and non-government stakeholders. Through this exercise we identified potential risk related to government oversight of these organizations.

- Objective** **4.4** The objective of our work was:
To determine whether there is adequate government oversight of New Brunswick Agricultural Associations.
- Conclusion** **4.5** We have concluded there is no government oversight of agricultural fair associations by the Department of Agriculture, Aquaculture and Fisheries (DAAF) as required by legislation. DAAF believes the 13 existing agricultural fair associations do not fall under the Agricultural Fair Associations regulation, despite providing annual grant funding to these associations and acknowledging these entities are the only government recognized agricultural fairs in the Province.
- 4.6** In addition, there are limited provincial processes to monitor compliance with eligibility requirements for benefits such as property tax exemptions, gaming privileges, and income tax exemptions available to these entities. These exemptions are granted to the applicable associations by virtue of their operating status as agricultural fair associations and/or not-for-profit organizations.
- Main Points** **4.7** There are currently 13 provincially recognized agricultural fair associations in New Brunswick. These associations receive a small grant from DAAF annually but may also be eligible for other government programs and tax exemptions.
- 4.8** We reviewed oversight of agricultural fair associations by DAAF. We also looked at how government departments evaluate and monitor eligibility of these organizations for:
- property tax exemptions;
 - charitable gaming licenses; and
 - exemption from income tax.
- Department of Agriculture, Aquaculture and Fisheries - oversight of agricultural fair associations** **4.9** DAAF is required to “*supervise and control*” agricultural associations and societies in the Province under the *Agricultural Associations Act*.

DAAF does not fulfill its legislated mandate under the Agricultural Associations Act for oversight of agricultural fair associations.

4.10 We found DAAF does not fulfill its oversight mandate under the *Agricultural Associations Act* regarding agricultural fair associations. Although agricultural societies and exhibitions have existed since before 1900, DAAF does not supervise or control the associations as prescribed under the regulations and takes no action to address non-compliance by the associations.

4.11 A lack of action by DAAF to address non-compliance allows all parties to continue as they wish, with no regard for legislative requirements and no plan to further the legislated purpose for the existence of these organizations in provincial legislation.

Service New Brunswick – property tax exemptions

4.12 Service New Brunswick (SNB) is mandated to regulate property tax exemptions under the *Assessment Act*. Agricultural societies and fair associations are specifically exempted from payment of property tax under the *Assessment Act* if the property is occupied by the society or fair association solely for exhibition purposes.

4.13 We estimated the 2015 foregone revenue from property tax exemptions to agricultural fairs or the societies that sponsor the fairs at over \$468,000. The total 2015 foregone property tax revenue for all tax class 50 properties exempted under section 4 and paragraph 7.1(4)(a) of the *Assessment Act* (excepting Crown lands) was approximately \$52 million.

4.14 We noted that SNB requires no application form or associated documentation for an exemption from property tax and maintains no specific files on exemptions benefiting the associations in the Property Assessment Services Branch. Although regional files exist for property assessment purposes, these do not adequately address compliance with eligibility requirements.

SNB does not monitor eligibility of agricultural fair associations for property tax exemptions.

4.15 We found SNB does not adequately evaluate and document eligibility under the *Assessment Act* of agricultural fair association exemptions which is part of a larger group of similar exemptions for other various organizations totalling approximately \$52 million.

Department of Public Safety – Charitable gaming

4.16 Agricultural fair associations may be eligible for gaming event licensing under the Charitable Gaming Program administered by the Department of Public Safety (DPS) if they:

- are deemed an agricultural fair;

DPS does not evaluate or monitor the eligibility of all agricultural fair associations licensed under the Charitable Gaming program

- have a not-for-profit status; and
- comply with terms and conditions for holding events.

4.17 Although DPS requested documentation from some agricultural fair associations when they initially applied for a charitable gaming license, we could not conclude this was done in all cases or determine how that information was used to assess eligibility under the Charitable Gaming program.

4.18 Additionally, DPS indicated it does not revisit the eligibility status of the organizations on a periodic basis to ensure eligibility to hold charitable gaming events is maintained. We believe it is important to monitor continuing eligibility to ensure the status of these organizations has not changed and the associations remain compliant with legislated requirements.

Department of Finance – Income tax exemptions

4.19 Agricultural fair associations may be eligible for exemption from paying income tax under the *Income Tax Act* in two ways:

- as an agricultural organization; and/or
- as a not-profit organization.

4.20 We asked officials in the Department of Finance (DOF) how these organizations meet either of the two criteria. We were informed the Province relies upon Canada Revenue Agency definitions and conclusions regarding these exemptions. DOF has never audited these organizations for income tax purposes. According to DOF, under the terms of the Canada/New Brunswick Tax Collection Agreement, the Canada Revenue Agency is responsible for the monitoring function.

DOF does not monitor agricultural fair association eligibility for income tax exemption.

4.21 Based on our review, we found there is no monitoring of compliance with agricultural fair association status or not-for-profit status for income tax purposes at the provincial level. Reliance on Federal oversight under the Tax Collection Agreement may result in the Province providing exemptions and other benefits that agricultural fair associations may not be eligible to receive.

Results in Brief

4.22 Results in brief are presented in Exhibit 4.1.

Recommendations

4.23 Exhibit 4.2 provides a summary of recommendations from our work as well as department responses and timelines for implementation.

Exhibit 4.1 – Results in Brief

Agricultural Fair Associations

Why Is This Important?

- In 2013, the Auditor General received a letter from a concerned stakeholder.
- Preliminary scoping exercise was performed and potential risk related to government oversight of these organizations was identified.
- Government programs and exemptions can represent significant financial value and benefits for the 13 Agricultural Fair Associations (AFA) recognized in New Brunswick.

What We Found

Overall Conclusions

- Lack of oversight by government
- Limited provincial processes to monitor compliance with eligibility requirements for benefits
- Tax exemptions and other benefits could be unfairly given

Property Tax Exemptions Eligibility not Adequately Assessed or Monitored

- Property tax exemptions are regulated under the *Assessment Act* administered by Service New Brunswick (SNB)
- AFA property tax exemptions only applicable if the property is solely occupied for exhibition purposes
- Similar property tax exemptions for various organizations in New Brunswick totalled nearly \$52 million in 2015
- Inappropriately applied exemptions could lead to inconsistent or inequitable circumstances, as well as forgone revenue

No Oversight from Department of Agriculture, Aquaculture and Fisheries

- Department believes the *Agricultural Associations Act* and regulation are out of date

Department does not:

- Supervise or control the associations as prescribed under regulations;
- Acknowledge its oversight role over the fairs;
- Monitor AFA compliance with legislation, nor;
- Adequately monitor or control grant allocation

Charitable Gaming Program License Eligibility not Evaluated or Monitored

- Eligibility based solely on status of agricultural fairs and not-for-profit entities
- Department of Public Safety (DPS) does not regularly review or monitor AFA financial records or eligibility for Charitable Gaming activities

Income Tax Exemptions not Monitored at Provincial Level

- Under terms of agreement, Department of Finance relies solely on Federal government to monitor AFA eligibility for income tax exemptions

Exhibit 4.2 - Summary of Recommendations

Recommendation	Department's response	Target date for implementation
Audit Objective - To determine whether there is adequate government oversight of New Brunswick Agricultural Associations.		
<p>4.55 We recommend the Department of Agriculture, Aquaculture and Fisheries fulfill its legislated mandate under the <i>Agricultural Associations Act</i>. We recommend DAAF develop a strategy to further define its mandate, including a clear definition of its role and responsibilities as well as goals and objectives for its work with agricultural societies and agricultural fair associations.</p>	<p><i>DAAF views its departmental role as supporting the agricultural fairs and exhibitions for the service they provide in promoting the sector through agricultural awareness activities. Therefore, DAAF will accept the alternate recommendation, below.</i></p>	<p>NA</p>
<p>4.56 We recommend, alternatively, if the Department of Agriculture, Aquaculture and Fisheries does not intend to meet its current mandate under the <i>Agricultural Associations Act</i> and regulations, it pursue legislative amendments to the <i>Agricultural Associations Act</i> and regulations. This would define and clarify its commitment to these entities.</p>	<p><i>Agricultural fairs and exhibitions are largely volunteer and community based organizations, and lend valued support to DAAF priorities such as the promotion of Local Foods. Based on the above role, DAAF agrees to amend or repeal all or part of the Agricultural Associations Act, and related regulations.</i></p>	<p>2017</p>

Exhibit 4.2 - Summary of Recommendations (continued)

Recommendation	Department's response	Target date for implementation
<p>4.72 We recommend the Department of Agriculture Aquaculture and Fisheries define, communicate, and monitor minimum reporting requirements for all agricultural associations and societies it is required to oversee under the <i>Agricultural Associations Act</i>.</p>	<p><i>DAAF agrees that it will communicate with the agricultural associations and societies the findings of the Auditor General's report.</i></p> <p><i>Although DAAF contends that if an agricultural association is not incorporated under the Agricultural Associations Act it is not required to comply with the regulations, while legislative or regulatory amendments / repeals are investigated, DAAF agrees to develop an appropriate process for a regular review of the exhibition associations' operating status.</i></p>	<p><i>Summer 2016</i></p> <p><i>2016-17</i></p>
<p>4.81 We recommend the Department of Agriculture, Aquaculture and Fisheries distribute funding directly to agricultural fair associations without the assistance of a third-party entity. Accordingly, we recommend DAAF develop and implement a grant allocation process with applicable controls to ensure proper use of public funds.</p>	<p><i>DAAF agrees that it will formalize and implement a grant allocation process for agricultural fair associations. DAAF will ensure that this process will enable it to support the fair associations directly.</i></p> <p><i>DAAF notes that it is also able to support any third party entity that plays a valuable role in promoting agriculture and representing New Brunswick in national organizations.</i></p>	<p><i>2017</i></p>

Exhibit 4.2 - Summary of Recommendations (continued)

Recommendation	Department's response	Target date for implementation
<p>4.104 We recommend, at a minimum, Service New Brunswick follow its internal standard and re-assess any agricultural fair association exceeding the 10-year assessment cycle, including Fredericton, Saint John, Miramichi and Queens County associations. We recommend SNB evaluate the eligibility of these organizations for exemption from property tax.</p>	<p><i>Service New Brunswick completed an on-site inspection of each Agricultural Fair Association in December 2015. An inventory of current building information was updated and the exemption status on each property was reviewed to ensure the current use of the property meets the eligibility for an assessment exemption.</i></p>	<p><i>Completed</i></p>
<p>4.109 We recommend Service New Brunswick develop, document, and implement a standardized process and procedures to evaluate the eligibility of requests for property tax exemptions (tax class 50) and undertake regular monitoring to ensure organizations with exemptions have sustained their eligible status.</p>	<p><i>Service New Brunswick will implement a standardized process to evaluate the eligibility of future requests for property tax exemptions. In addition, SNB will commence regular monitoring of exempt properties to ensure their continued eligibility status.</i></p>	<p><i>December 31, 2016</i></p>

Exhibit 4.2 - Summary of Recommendations (continued)

Recommendation	Department's response	Target date for implementation
<p>4.143 We recommend the Department of Public Safety develop a standardized process and implement associated procedures for evaluating initial and ongoing eligibility of agricultural fair associations for licensing under the Charitable Gaming program.</p>	<p><i>The Department commits to mapping the current processes used when determining licence approval eligibility, and to develop a checklist of criteria to accompany future applications in order to ensure that all licences are issued in a consistent manner.</i></p> <p><i>The Department of Public Safety, Gaming Control Branch is responsible for the issuance of licences pertaining to the charitable gaming program and does not assess or monitor Agricultural fair association status and/or not-profit status for Agricultural fair associations.</i></p>	<p><i>September 30, 2016</i></p>
<p>4.154 We recommend the Department of Finance request Canada Revenue Agency undertake audits of Agricultural Fair Associations currently exempted from provincial income tax to verify the eligibility status of these organizations.</p>	<p><i>The Department will be engaging Canada Revenue Agency and will request that the Canada Revenue Agency undertake audits of Agricultural Fair Associations currently exempted from provincial income tax to verify the eligibility status of these organizations.</i></p>	<p><i>The request to the Canada Revenue Agency will be made immediately following the public release of the audit report.</i></p>

Background

4.24 According to a Government of New Brunswick document entitled “*Sectors in Review 2013*”, the agriculture and agri-food sector is an important contributor to the provincial economy. Exhibit 4.3 provides an excerpt from the 2013 overview of the agri-food industry in the province.

Exhibit 4.3 - Agriculture and Agri-Food Industry in New Brunswick

Agriculture and Agri-Food Industry in New Brunswick	
Number of farms (2011 Census of Agriculture)	2,611
Farmland, hectares (2011 Census of Agriculture)	379,526
Land in crops, hectares (2011 Census of Agriculture)	142,138
Total farm assets	\$2.7 billion
Farm cash receipts	\$573 million
Number of processing plants	140
Estimated shipments of processed food products	Over \$1 billion
Agri-food exports	\$380.8 million
Employment, farm	4,500
Employment, processing	6,200
Source – This information was reproduced by AGNB from a Government of New Brunswick website document entitled <i>Sectors in Review 2013</i> .	

4.25 A 2010 Government of New Brunswick Agricultural strategy stated “*the agriculture sector has transitioned from a collection of many diversified farms to fewer, larger farms that tend to focus their efforts on specific commodities*”. This differs significantly from the 19th century, when agricultural associations were developing in New Brunswick and farms were typically smaller and widespread.

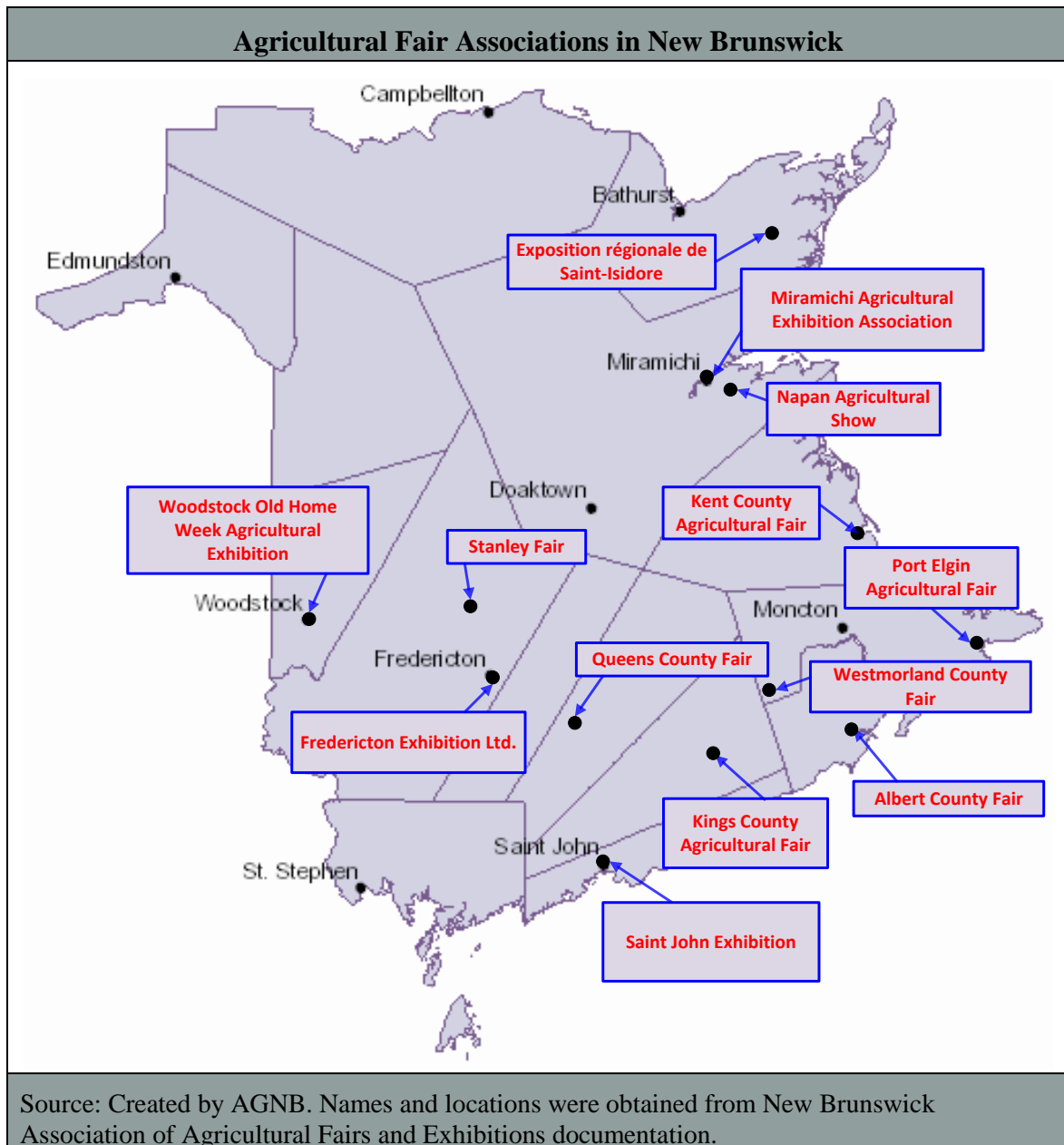
4.26 Although the agriculture industry in New Brunswick has changed considerably since the mid-19th century, the purpose of agricultural fairs has remained relatively constant. The current *Agricultural Associations Act* defines the purpose of an agricultural fair association to “*...hold exhibitions of livestock, poultry, agricultural produce and the products of kindred agriculture and*

homemaking arts.”

4.27 There are currently 13 entities acknowledged as agricultural fair associations by government in New Brunswick. All are members of the New Brunswick Association of Agricultural Fairs and Exhibitions (NB Fairs) and each has a seat on the NB Fairs Board of Directors. The following list with locations of the fairs highlighted in Exhibit 4.4 was taken from NB Fairs documentation:

1. Albert County Fair
2. Fredericton Exhibition Ltd.
3. Kent County Agricultural Fair
4. Kings County Agricultural Fair
5. Exposition régionale de Saint-Isidore
6. Miramichi Agricultural Exhibition Association
7. Napan Agricultural Show
8. Port Elgin Agricultural Fair
9. Queens County Fair
10. Saint John Exhibition
11. Stanley Fair
12. Westmorland County Fair
13. Woodstock Old Home Week Agricultural Exhibition

Exhibit 4.4 – Agricultural Fair Associations in New Brunswick



4.28 The Province has provided an annual grant to recognized agricultural fairs since at least the early eighties. Over the five years we reviewed (2010 through 2014) DAAF provided funding in the range of \$80,000 to \$85,000 and DAAF officials indicated NB Fairs distributes approximately \$65,000 of the grant to the member associations, retaining the remainder for NB Fairs internal use.

4.29 In addition to the grant, the 13 fair associations may be eligible for benefits such as:

- property tax exemption or reduction (administered by SNB). In 2015 this benefit was approximately \$468,000;
- the ability to generate revenue by offering games of chance (lottery schemes administered by DPS). In 2014, self-reported gaming revenue across the 13 fairs totaled approximately \$450,000; and
- exemption from payment of tax on any surplus income they earn or raise (administered by DOF).

These potential benefits are subject to applicable government regulations and eligibility requirements.

Scope

4.30 This chapter addresses oversight of agricultural fair associations by government. Our work focused on the government departments we believe to be responsible for overseeing operations of agricultural fairs as well as the privileges and exemptions available to these organizations under various statutes.

Methodology

4.31 We reviewed provincial legislation governing agricultural fair associations, property tax assessment, charitable gaming control, and income tax. We reviewed government oversight and regulatory processes, documentation and data related to agricultural fair associations as well as the benefits and exemptions provided through government departments to these associations.

4.32 We conducted interviews with management and staff of government departments as well as representatives of the NB Fairs. We sent information surveys to the 13 agricultural fairs to gather background information on their governance and operations.

4.33 We focused on the 13 agricultural fair associations recognized by the Province through DAAF.

4.34 Our work was performed in accordance with standards for assurance engagements, encompassing value-for-money and compliance, established by the Chartered Professional Accountants of Canada, including such tests and other procedures as we considered necessary in the circumstances.

4.35 Certain financial and statistical information presented

Observations and Recommendations

Department of Agriculture, Aquaculture and Fisheries - Governance and oversight of agricultural fair associations

in this chapter was compiled from information provided by government departments and entities directly involved in the topic area. It has not been audited or otherwise verified. Readers are cautioned that this information may not be appropriate for their purposes.

- 4.36** To review this topic area we developed four criteria against which to measure and report our observations, conclusions, and recommendations. These criteria can be found in Appendix I.
- 4.37** Our observations, conclusions and recommendations are presented under the following headings:
- Department of Agriculture, Aquaculture and Fisheries (DAAF) - Governance and oversight of agricultural fair associations;
 - Service New Brunswick (SNB) - Property tax exemptions;
 - Department of Public Safety (DPS) - Charitable gaming oversight; and
 - Department of Finance (DOF) - Income tax exemptions.
- 4.38** We developed our first criterion to evaluate if DAAF exercised adequate oversight of agricultural fair associations by monitoring compliance with the *Agricultural Associations Act* and regulations.
- 4.39** We surveyed each of the 13 agricultural fair associations, of which:
- 9 responded with varying levels of detail;
 - 3 did not respond (Fredericton, Kent County, and Woodstock); and
 - 1 responded by letter (Miramichi).
- 4.40** In their letter, Miramichi Agricultural Exhibition Association declined to complete the survey or provide any information not publicly available, citing “*significant privacy concerns*” and indicating that “*sponsoring an agricultural fair is only one of this firm’s objectives*”.
- 4.41** The *Agricultural Associations Act* prescribes the power and duties mandated to the Minister of Agriculture, Aquaculture, and Fisheries under section 2, as follows:

“The supervision and control of the societies and associations and the administration of grants to them is vested in the Minister”.

4.42 The *Agricultural Associations Act* governs both “agricultural societies” and “agricultural fair associations”. The Act defines agricultural societies as:

“a community group of farmers organized for the general promotion of agriculture within that community”

Agricultural fair associations

4.43 Our review work focused on agricultural fair associations, defined in the *Agricultural Associations Act* as:

“...an organization of district, county or provincial scope whose purpose is to hold exhibitions of livestock, poultry, agricultural produce and the products of kindred agricultural and homemaking arts.”

4.44 While these are separate entities under the *Agricultural Associations Act*, at least 3 of the 13 agricultural fairs we reviewed were sponsored by an agricultural society. We included these three agricultural societies in our review.

4.45 The *Agricultural Associations Act* also provides for incorporation of both agricultural societies and agricultural fair associations. Regulation (82-55), entitled “*Agricultural Fair Associations*”, prescribes operating and reporting requirements of the associations as well as DAAF’s recourse when associations are not in compliance with the regulation or the *Agricultural Associations Act*.

4.46 DAAF believes the *Agricultural Associations Act* and regulation are out of date; noting that language in some sections is very similar to the *Agriculture Act, 1888*. They highlighted section 11 of the regulation which states “*the proposed prize list shall be submitted to the Minister for approval or amendment before it is circulated to prospective exhibitors or competitors*”, as an example of an outdated requirement.

4.47 DAAF indicated it has been considering a significant update or possible repeal of this legislation. The process has not yet been undertaken due to competing legislative priorities.

Regulatory framework appears old and some language is dated

4.48 We concur that some sections of the regulation do appear dated. However, we believe DAAF is required to comply with the current *Agricultural Associations Act* and associated regulations until such time as amendments are approved by the Legislative Assembly.

4.49 Section 2 of the *Agricultural Associations Act* sets a mandate for DAAF to “*supervise and control*” these entities. We expected DAAF to have further defined and documented a strategy to fulfil this role and set meaningful goals and objectives against which to measure their success.

DAAF is not performing supervision or control as mandated under Section 2 of the Agricultural Associations Act

4.50 DAAF representatives however, indicated they perform only an advisory function to agricultural fair associations. They could provide no evidence of a documented strategy, goals or objectives to guide their work with these associations.

4.51 Without a clear strategy to implement their oversight mandate and measure performance, we believe DAAF cannot demonstrate effective supervision and control of these entities as required under section 2 of the *Agricultural Associations Act*.

DAAF does not acknowledge its oversight role over the 13 fairs

4.52 DAAF stated they had significant reservations regarding their oversight responsibility for the 13 agricultural fair associations. DAAF representatives indicated most of these organizations were not incorporated under the *Agricultural Associations Act* based on extensive research by DAAF. DAAF representatives were unable to confirm whether three of the agricultural fair associations were incorporated at all.

4.53 DAAF officials informed us of their intention to seek legal advice to determine if sections of the *Agricultural Associations Act* and Regulation 82-55 applied to the 13 existing agricultural fair associations. They contend that if an association was not incorporated under Regulation 82-55 of the *Agricultural Associations Act* or was incorporated under another Act, the entity was not required to comply with Regulation 82-55.

In our opinion, DAAF is responsible for supervising and controlling Agricultural Societies and Agricultural Fair Associations under the Agricultural Associations Act

Recommendations

DAAF has no policy or procedural documentation to monitor agricultural fair association compliance with legislation

4.54 While we understand DAAF's perspective, we believe that section 2 of the *Agricultural Associations Act*, as highlighted above, applies to all associations with no limitation based on the organization's legal structure or which Act they are incorporated under. In our opinion, DAAF remains responsible for supervision and control of the entities.

4.55 We recommend the Department of Agriculture, Aquaculture and Fisheries fulfill its legislated mandate under the *Agricultural Associations Act*. We recommend DAAF develop a strategy to further define its mandate, including a clear definition of its role and responsibilities as well as goals and objectives for its work with agricultural societies and agricultural fair associations.

4.56 We recommend, alternatively, if the Department of Agriculture, Aquaculture and Fisheries does not intend to meet its current mandate under the *Agricultural Associations Act* and regulations, it pursue legislative amendments to the *Agricultural Associations Act* and regulations. This would define and clarify its commitment to these entities.

4.57 DAAF could provide no policy or procedural documentation explaining how monitoring of agricultural fair association compliance with legislation is completed. DAAF representatives reiterated their belief that their role is advisory and geared toward helping the associations fulfill their purpose of promoting agriculture in the Province.

4.58 Policy and procedural documentation provides employees with guidance on planning and performing duties required to fulfill the DAAF mandate. Reports allow management to gauge compliance with legislation and address compliance issues.

4.59 Regulation 82-55 addresses agricultural fair association requirements under the *Agricultural Associations Act* and is the only available framework against which we could measure the DAAF effort to oversee agricultural associations.

4.60 We reviewed annual files on agricultural fair associations provided by DAAF covering a period from

2010 through 2014 to determine if legislative requirements for the submission of financial and associated governance information were complied with and/or followed up by DAAF.

4.61 From our review it was apparent that none of the regulatory requirements were being addressed. The files typically contained only two items related to our work:

1. A report from NB Fairs; and
2. The annual request for grant funding from NB Fairs and the Minister's response.

4.62 NB Fairs operates as an umbrella organization with membership from the 13 fair associations, each of which has a seat on the NB Fairs Board of Directors. It has no standing in the *Agricultural Associations Act*. A single DAAF employee also sits on the NB Fairs Board in an advisory capacity but provides no formal report on the organizations activities or decisions to DAAF.

No agricultural fair association submits an annual report on finances, operations, or governance to DAAF

4.63 The reports submitted to DAAF from NB Fairs over the five-year period did contain summaries from some individual fair associations specific to the events of their annual fair. However, they included no relevant financial statements, operating, or governance information from any of the agricultural fair associations operating in the Province during that period.

4.64 Exhibit 4.5 shows the submission history of these reports from individual fairs, as contained within the NB Fairs report submission.

Exhibit 4.5- Event Report Submissions by Agricultural Fair Association (2010 through 2014)

Event Report Submissions by Agricultural Fair Association (2010 through 2014)													
Year	Albert County	Fredericton	Kent County	Kings County	Miramichi	Napan	Port Elgin	Queens County	Saint John	St.- Isidore	Stanley	Westmorland County	Woodstock
2014	N	Y	Y	N	N	N	N	Y	Y	N	Y	Y	N
2013	N	Y	N	N	N	Y	N	Y	Y	Y	Y	Y	Y
2012	Y	N	N	N	N	Y	N	Y	N	N	Y	Y	Y
2011	Y	N	N	Y	N	N	N	Y	N	N	Y	Y	Y
2010	Y	Y	N	Y	N	N	N	Y	Y	Y	Y	Y	Y
Reports Filed	3	3	1	2	0	2	0	5	3	2	5	5	4
Y - report submitted through NB Fairs N – no report submitted through NB Fairs Source – Table created by AGNB using information provided by Agriculture, Aquaculture and Fisheries (unaudited).													

4.65 The DAAF files indicated only three agricultural fair associations (Queens County, Stanley, and Westmorland) filed a report each year to DAAF through NB Fairs. We found no reports from Miramichi or Port Elgin in DAAF files over the five-year span. DAAF would need such information in order to fulfill even a limited oversight role.

DAAF has no documented reporting framework for Agricultural Fair Associations

4.66 We also found no evidence DAAF has communicated any reporting requirement or provided any guideline to these organizations ensuring a minimum level of information is submitted on a regular basis.

4.67 DAAF confirmed that it has no records in its files communicating its oversight responsibility to the individual fairs and exhibitions operating in the Province.

4.68 In order to fulfill its mandate under section 2 of the *Agricultural Associations Act*, DAAF needs to ensure the associations it is required to “supervise and control” are aware of the nature of this relationship and understand what is required of them to be compliant with legislation.

DAAF does not monitor agricultural fair association compliance with the Agricultural Associations Act

DAAF takes no action to address non-compliance

Recommendation

DAAF provides grants to Agricultural Fair Associations

DAAF has no agreement with the New Brunswick Association of Fairs and Exhibitions to administer the grant to agricultural fair associations on its behalf

4.69 Our review of DAAF files over the five-year period found no evidence DAAF undertakes any monitoring to ensure compliance with the *Agricultural Associations Act* and associated regulations.

4.70 Additionally, while aware the existing agricultural fair associations are not compliant with the *Agricultural Associations Act*, DAAF has taken no action to address the non-compliance issues. Officials have indicated the *Agricultural Associations Act* and regulation are not relevant to the current relationship between the Province and the agricultural fair associations.

4.71 A lack of action by DAAF to address non-compliance allows all parties to continue as they wish, with no regard for legislative requirements and no plan to further the legislated purpose for the existence of these organizations.

4.72 **We recommend the Department of Agriculture Aquaculture and Fisheries define, communicate, and monitor minimum reporting requirements for all agricultural associations and societies it is required to oversee under the *Agricultural Associations Act*.**

4.73 Files we reviewed did contain the annual request for grant funding from NB Fairs. This funding ranged from \$80,000 to \$85,000 over the five years we reviewed. Each year approximately \$15,000 of the total grant is used to offset NB Fairs administrative and travel expenses. The remainder is distributed to the 13 agricultural fair associations.

4.74 We found copies of the approval letter from the Minister to NB Fairs in each of the annual files at DAAF.

4.75 However, we found various weaknesses in the grant application process through NB Fairs. We have communicated these weaknesses to DAAF. For the purposes of this report we note two items of particular concern in the grant funding process.

4.76 There is no current policy or agreement of any sort defining the purpose of the DAAF relationship with NB Fairs and regulating the grant award or distribution process carried out by NB Fairs. As previously noted, there is no standing in the *Agricultural Associations Act* for this entity so we would have expected DAAF, as a minimum, to have a legal agreement governing this funding relationship. This would help ensure adequate

controls are in place to protect public interest as well as interests of the parties involved.

DAAF has no documented process to determine eligibility of potential new fairs. They do not document decisions on potential new fair membership

4.77 In addition, the NB Fairs Board of Directors Annual Meeting minutes revealed that over the five-year period we reviewed, at least two requests from other potential exhibitions to become members of NB Fairs were made to the NB Fairs Board. We could find no record of a recommendation from the NB Fairs Board to DAAF relating to these requests. We also found no procedural documentation prepared by NB Fairs or DAAF on how a decision of this nature should be made.

4.78 We note that if a new member is added to the Board of NB Fairs, the grant distribution would likely include the new member, thereby decreasing the share of the grant available to each of the other members. This could represent a conflict of interest for current board members.

4.79 DAAF officials assured us they were made aware of the requests and the applicants were not eligible to be recognized as fairs and therefore the requests were not approved. DAAF could provide no documentation supporting these decisions.

An inherent conflict of interest exists for the New Brunswick Association of Agricultural Fairs and Exhibitions

4.80 We believe NB Fairs has an inherent conflict of interest since the entire board of directors is comprised of the currently recognized agricultural societies or fair associations. Although the primary activity NB Fairs undertakes on behalf of DAAF is to distribute the grant funding to the individual associations, we could determine no reason for DAAF to rely on NB Fairs to complete this annual process. We believe DAAF is responsible for the grant funding and should ensure adequate controls exist to protect public funding.

Recommendation

4.81 We recommend the Department of Agriculture, Aquaculture and Fisheries distribute funding directly to agricultural fair associations without the assistance of a third-party entity. Accordingly, we recommend DAAF develop and implement a grant allocation process with applicable controls to ensure proper use of public funds.

4.82 By not actively supervising and controlling agricultural societies and fair associations, DAAF cannot provide confirmation of their continued operation as an agricultural fair. This is important to the associations as well as other government departments who may determine eligibility for various government programs, funding, and

tax exemptions based upon the operation of these entities as an agricultural fair.

Conclusion

4.83 We concluded DAAF does not oversee or monitor the agricultural fair associations as mandated under the *Agricultural Associations Act* or regulation.

Service New Brunswick - Property tax exemptions

4.84 Property tax exemptions and assessment reductions are regulated under the *Assessment Act* administered by the Property Assessment Services Branch in Service New Brunswick (SNB).

4.85 Subsection 4(1) of the *Assessment Act* states that “*all real property in New Brunswick is liable to assessment and taxation...*”. It then highlights properties exempted from taxation including, among others, real property:

- owned by a church (subject to specific eligibility requirements);
- owned and occupied by literary and historical societies or institutions and associations formed and operated for the advancement of science and art within the province; and
- of cemetery companies not organized, incorporated or operated for profit.

Agricultural fair associations are exempt from property tax

4.86 Paragraph 4(1)(f) of the *Assessment Act* specifically exempts agricultural societies and fair associations from paying property tax, stating:

“real property occupied by an agricultural society or an agricultural fair association that is used solely for exhibition purposes”

Tax class 50 properties are exempt from property tax

4.87 SNB classifies property for assessment and taxation purposes. Tax class 50 “*applies to that portion of real property where the assessed owner has been exempted from all tax rates under section 4 of the Assessment Act. It also applies to property that has qualified for a 100% reduction of assessment under section 7 of the Assessment Act.*”

4.88 Because all section 4, tax class 50 exemptions are treated similarly by SNB, we believe our findings relating to agricultural fair associations are equally applicable to other organizations eligible for these exemptions.

4.89 We estimated the total 2015 assessment value of tax class 50 properties (excluding Crown land under the Department of Natural Resources) at \$1.46 billion using

data provided by SNB.

Exhibit 4.6 – 2015 Tax Class 50 Exemptions - Estimated Foregone Revenue

2015 Tax Class 50 Exemptions - Estimated Foregone Revenue		
Taxation Authority	Tax Class 50 Properties	Agricultural Associations & Societies
Municipal, LSD, & Rural Communities	\$ 25,065,440	\$ 244,513
Provincial	26,517,846	221,319
Provincial assessment cost levy	283,515	2,478
Total	\$ 51,866,801	\$ 468,310
<p><u>Tax class 50 properties</u> include both section 4 and section 7 properties identified as eligible under the <i>Assessment Act</i> (we have excluded Crown lands administered by the Department of Natural Resources).</p> <p><u>Agricultural Associations & Societies</u> include both agricultural fair associations and agricultural societies who have been exempted under the <i>Assessment Act</i>.</p> <p>Source: Calculation completed by the AGNB using data and information provided by Service New Brunswick (unaudited).</p>		

\$51.9 million in foregone revenue from tax class 50 exemptions in 2015

4.90 As highlighted in Exhibit 4.6, the estimated forgone revenue of all tax class 50 exemptions to all taxation authorities in 2015 was \$51.9 million.

4.91 After reviewing the legislation and given the \$51.9 million estimated value of 2015 foregone tax revenue (provincial and municipal), we expected SNB to be following clearly documented policies and processes to:

- initially evaluate the eligibility of applicants seeking section 4 exemption from property tax; and
- monitor ongoing eligibility of exempted organizations.

4.92 We expected, as a minimum, that SNB would evaluate whether agricultural societies and fair associations met the criteria under 4(1)(f) as noted above. This should include specifically verifying the properties were “occupied” by the associations in question and met the sole use criteria specified in legislation.

4.93 SNB officials indicated while they have not documented a formal process, they may complete an informal evaluation when an initial request is made for an

exemption under section 4. SNB does not, however, require a written application from the requestor or document the approval process and maintain records at the Property Assessment Branch for the initial evaluation of eligibility.

4.94 SNB officials stated they rely on two primary methods of evaluating eligibility of agricultural fair associations:

1. SNB would complete regular monitoring for eligibility as part of the SNB property assessment process. SNB officials indicated they have an internal standard requiring regular inspection for property assessment purposes at intervals not exceeding 10-years and field records are maintained at the SNB regional offices for these inspections.
2. In addition, SNB would consider DAAF information to determine and evaluate the status of an agricultural fair association.

Estimated foregone revenue from agricultural fair association property tax exemptions totaled \$468,000 in 2015

4.95 Exhibit 4.7 summarizes information from SNB records and regional files provided. According to SNB information there are 10 agricultural societies or fair associations listed in section 4, tax class 50 exempt properties. We estimated the 2015 assessment value of property attributed to these agricultural societies and fair associations at \$12.8 million, resulting in foregone property tax revenue to all taxation authorities of approximately \$468,000.

Exhibit 4.7 – 2015 Agricultural Society & Fair Association Property Tax Information

2015 Agricultural Society & Fair Association Property Tax Information						
SNB Assessed Owner or Lessee	SNB Assessed Property Value	Estimated Forgone Property Tax Revenue			Date of Last SNB Assessment	Comments
		Provincial	Municipal, LSD & Rural	Total		
Albert Agricultural Society #133	\$ 476,600	\$ 6,180	\$ 6,461	\$ 12,641	2012-09-12	
Centre agricole Péninsule Acadienne à St Isidore Inc	34,900	453	440	892	2011-01-14	
Exhibition Association of the City and County of Saint John	4,365,300	96,272	116,881	213,153	2006-05-26	Due for reassessment in 2016
Exposition regionale du Madawaska (Lessee)	154,200	2,000	2,521	4,521	2009-08-06	Not operating as a fair since at least 2011 - remains SNB exempt
Fredericton Exhibition Co Ltd	1,056,400	13,698	15,013	28,711	2005-07-29	Overdue for 10-year reassessment
Fredericton Exhibition Ltd (Lessee)	2,922,700	37,899	41,534	79,433	2005-07-29	Overdue for 10-year reassessment
Kent County Agricultural Fair Association	1,465,700	19,006	6,631	25,637	2010-07-30	
Miramichi Agricultural Exhibition Association Ltd	1,841,900	40,621	47,795	88,416	2005-10-12	Overdue for 10-year reassessment
Queens County Fair Inc	173,400	3,668	3,320	6,988	1996-08-13	Overdue for 10-year reassessment
Stanley Agricultural Society	69,300	1,268	1,222	2,491	2011-09-21	
Westmorland County Agricultural Fair Association	210,700	2,732	2,696	5,428	2010-09-15	
Totals	\$ 12,771,100	\$ 223,797	\$ 244,513	\$ 468,310		
Notes						
LSD refers to local service district						
Rural refers to rural community						
Source: Created by the Office of the Auditor General of New Brunswick with information and data provided by Service New Brunswick						

Miramichi Agricultural Exhibition Association sold property valued at \$1.5 million in 2012

4.96 We noted the property assessment related to Miramichi Agricultural Exhibition Association does not reflect a 2012 sale of part of this property to the Federal government for \$1.5 million. At the time of our review SNB indicated they had not completed a re-assessment of the property remaining with the association so the value shown in the table may be overstated.

4.97 We reviewed all regional files SNB provided relating to the agricultural societies and fair associations with a tax class 50 exemption. This information included field card files meant to document inspections and property assessment as well as other assorted documentation.

4.98 SNB officials indicated SNB field staff would complete field inspection cards detailing required information during the assessment process. This information would be entered into the SNB systems and also be used to evaluate and monitor eligibility for property tax exemptions.

SNB regional files were inconsistent and provided inadequate support for monitoring of eligibility

4.99 Examples we found of inadequate supporting information and poor documentation included:

- field cards not consistently completed. In the Miramichi Agricultural Exhibition Association file, while 18 field inspection cards were included, none were completed, and
- inconsistent, non-current documentation. The Saint John Exhibition file referenced only a 1992 appeal but contained no field inspection card related to the exempt property while the Westmorland County Fair file had only one 1988 field inspection card completed in the file. According to the SNB system though, inspections had been completed on Westmorland County Fair property after 1988.

4.100 Our analysis found no standardized, documented process had been followed to evaluate the “sole purpose” criterion noted above. Additionally, regular monitoring for ongoing compliance with eligibility requirements was poorly documented.

4.101 Due to incomplete, inconsistent and missing field card information, we could not confirm from these files that assessments were actually completed and eligibility was verified by SNB.

4.102 Our review also found instances where inspections had

not met the internal SNB 10-year interval standard. The Queens County Agricultural Fair Association file indicated this organization had not been inspected in over 19 years. Both the Fredericton Exhibition and the Miramichi Agricultural Exhibition Association files suggested the most recent inspection dates had surpassed the SNB 10-year time limit in 2015. We also noted property owned by the Exhibition Association of the City and County of Saint John has not been reassessed since 2006, meaning it is due for reassessment in 2016.

4.103 At a minimum we believe SNB should review these properties per the 10-year timeline to ensure assessed value is accurate and current. During the assessment SNB should also review eligibility requirements for any property tax exemptions benefiting the fair association and verify the organizational status has not changed.

Recommendation

4.104 We recommend, at a minimum, Service New Brunswick follow its internal standard and re-assess any agricultural fair association exceeding the 10-year assessment cycle, including Fredericton, Saint John, Miramichi and Queens County associations. We recommend SNB evaluate the eligibility of these organizations for exemption from property tax.

4.105 We also noted the Exposition régionale du Madawaska remains listed in the exempted category although according to DAAF officials, it has not operated a fair since at least 2011 and no longer receives a DAAF grant as an agricultural fair association. We found nothing in the SNB regional file on this organization noting any issue with eligibility for the section 4 exemption. SNB officials we spoke with had no knowledge of this situation.

4.106 We asked SNB for any requests they have made to DAAF in an effort to confirm the status of the fair associations for eligibility purposes. It could provide nothing of this nature.

SNB does not assess or monitor agricultural fair association eligibility for tax class 50 exemptions

4.107 SNB provided no documentation clearly supporting either the initial evaluation of eligibility or the decision to approve exemptions granted to the agricultural fairs. Further, SNB could provide little documentation to support how it monitors the ongoing eligibility of these organizations to substantiate their continuing exemption from property tax.

4.108 Without standardized, documented procedures for evaluating, monitoring, and reporting on compliance with

eligibility requirements for these organizations, SNB cannot adequately control exemption authorizations and ensure that only those organizations entitled to an exemption under section 4 of the *Assessment Act* are receiving them.

Recommendation

4.109 We recommend Service New Brunswick develop, document, and implement a standardized process and procedures to evaluate the eligibility of requests for property tax exemptions (tax class 50) and undertake regular monitoring to ensure organizations with exemptions have sustained their eligible status.

Conclusion

4.110 After completing our review of tax class 50 exemptions, as administered by SNB under section 4 of the *Assessment Act*, we concluded SNB does not adequately monitor the eligibility of agricultural fair association exemptions.

Department of Public Safety - Charitable Gaming

4.111 The ability to raise funds by conducting gaming activities can provide considerable financial benefit to eligible organizations. We wanted to understand if The Department of Public Safety (DPS) assessed and monitored compliance with agricultural fair association status and/or not-for-profit status when determining agricultural fair association eligibility to conduct these events.

4.112 Although lotteries and games of chance in Canada are generally prohibited, section 207 of the *Criminal Code* does allow provincial governments to license specific types of gaming / lottery activities.

4.113 *Criminal Code* section 207 also allows fairs and exhibitions to undertake permitted gaming activities, provided the provincial government has:

- “designated that fair or exhibition as a fair or exhibition where a lottery scheme may be conducted and managed, and;
- issued a licence for the conduct and management of a lottery scheme to that board or operator.”

4.114 In New Brunswick, lottery licensing is regulated under the *Gaming Control Act*. The Gaming Control Branch in DPS is responsible for “regulation, control, and licensing of charitable gaming in the Province.”

4.115 According to Government of New Brunswick online information, to qualify for licensing by DPS under the

Charitable Gaming program, an “*organization must be a charitable organization and the proceeds of the lottery scheme must benefit a charitable object or purpose*”

DPS considers agricultural fair associations eligible to conduct gaming events in New Brunswick under the Charitable Gaming program

Organizations granted licenses under the Charitable Gaming program cannot operate for personal profit

Eligibility of agricultural fair associations for Charitable Gaming licensing purposes is based solely on their status as agricultural fairs and not-for-profit entities

4.116 A government document, *Charitable Lottery Licence - Terms and Conditions* for lottery licensing in the Province identifies two separate groups eligible for charitable gaming:

- Religious or Charitable
- Fairs and Exhibitions

4.117 It also defines a charitable or religious organization as “*an organization whose purpose or object is for:*

- *the relief of poverty;*
- *education;*
- *advance of religion; or,*
- *any purpose beneficial to the community”*

It further states that a “*not-for-profit organization can be considered eligible when the use of proceeds is considered charitable*”.

4.118 Representatives of DPS confirmed that an organization must be non-profit to be licensed under the Charitable Gaming program. In other words, an organization cannot obtain a charitable gaming license from DPS if it operates for personal profit.

4.119 DPS provided us with documentation outlining general eligibility requirements and procedural rules for gaming events. However, DPS representatives confirmed there was no specific process followed or criteria developed and documented to evaluate agricultural fair associations respecting their status as an agricultural fair or as a not-for-profit organization.

4.120 Charitable gaming files maintained by DPS from 2010 through 2014 highlighted the activities of six agricultural fair associations over this period. Exhibit 4.8 provides estimated net proceeds (or losses) reported to DPS by the organizations.

Exhibit 4.8 – Agricultural Fair Association Net Proceeds from Charitable Gaming (2010 through 2014)

Agricultural Fair Association Net Proceeds from Charitable Gaming (2010 through 2014)					
Agricultural Fair Association	2010	2011	2012	2013	2014
Napan	\$ -	\$ -	\$ 1,025	\$ 2,435	\$ -
Queens County	897	1,930	1,854	(405)	2,792
Kent County	-	949	2,167	3,667	1,996
Miramichi	103,931	145,721	182,765	191,881	181,895
Saint John	206,120	198,467	175,050	249,439	175,347
Fredericton	-	-	-	30,766	87,752
Total	\$310,948	\$347,067	\$362,861	\$477,783	\$449,782

Source – Created by AGNB with data and information from the Department of Public Safety as reported by the agricultural fair associations (unaudited).

4.121 The information in Exhibit 4.8 suggests that the Saint John and Miramichi organizations undertake significantly more gaming activities than the other four entities. Saint John proceeds came solely from bingo events while DPS records indicate Miramichi undertook bingo combined with break-open ticket events.

4.122 DPS uses the following sources of information in determining eligibility for a charitable lottery license and ongoing compliance with the *Gaming Control Act*:

- application documentation from agricultural fair associations;
- information from the SNB Corporate Registry;
- information from the Canada Revenue Agency; and
- event reports from agricultural fair associations.

Application documentation from agricultural fair associations

4.123 DPS indicated that in practice they would assess the eligibility of an entity when it first applied for a license under the program. To do this they would review the information provided on the application for licensing and might request other information from the entity to ensure they were a not-for-profit organization.

4.124 In the case of an unincorporated agricultural fair association they would generally acquire documentation directly from the association in support of eligibility. Documentation could vary considerably depending on the

- size and nature of the organization.
- 4.125** From the incorporated associations, they could request documentation such as Letters Patent, organizational charter documents, and by-laws.
- 4.126** We noted applications are typically completed per DPS requirements and when they are not, DPS representatives indicate they do not issue a charitable gaming license until they are satisfied requirements have been met.
- 4.127** We found supporting documents related to the organizational structure (Letters Patent, charter, by-laws, board membership, etc.) or financial position in three of the six agricultural fair association files provided, mostly associated with their first application for a charitable gaming license. DPS provided similar information related to a fourth association from a prior period.
- 4.128** We found no similar organizational information in either the Kent County or Miramichi files. In the case of the Miramichi Agricultural Exhibition Association file, there was a single note supporting the association's eligibility for a charitable gaming license, stating "*although this org. is registered as a corporation, they operate as a non-profit agricultural group, therefore, qualify for licensing*". However, there was nothing further substantiating this conclusion of eligibility located in the file.
- 4.129** When we raised this with DPS officials they indicated they also review the SNB Corporate Registry annual returns to ensure an entity is a not-for-profit organization and thereby eligible for a license.
- 4.130** SNB requires incorporated entities to file an annual return with organizational information and a current list of the board of directors. We found evidence of what appeared to be limited SNB information in only one of the six agricultural fair association files we reviewed. There was no SNB information in the Miramichi file to support the eligibility conclusion.
- 4.131** In addition, SNB representatives indicated they do no verification of the information provided annually by corporate entities to ensure accuracy. They simply verify that the forms have been completed. For this reason, we cannot consider Corporate Registry information as an adequate source to verify compliance with eligibility
- Application and license approval information is maintained by DPS**
- Three of the six agricultural fair association files contained documentation supporting initial eligibility of the associations**
- DPS provided no support for either Kent County or Miramichi Exhibition Association eligibility for licensing under the Charitable Gaming program**
- Service New Brunswick Corporate Registry information**

**Information from the
Canada Revenue
Agency**

requirements.

4.132 DPS also indicated it relies on the Canada Revenue Agency (CRA) to determine if an applicant is a charitable organization and might review the CRA website listing of charitable organizations to confirm this status.

4.133 We found no evidence in any agricultural fair association file that DPS contacted the CRA, reviewed CRA information, or used CRA not-for-profit definitions in evaluating eligibility for these entities.

**Event Reports from
Agricultural Fair
Associations**

4.134 DPS requires organizations to submit financial information on gross proceeds, costs, and calculated net proceeds of the licensed event(s). DPS requires this information to evaluate compliance with specific rules related to the use of funds from the event(s) and completes a tracking report on this information that is updated for each licence period.

*DPS relies on self-
reported financial
information to gage
compliance with program
requirements*

4.135 We found the calculation and tracking of this information was completed for each file we reviewed but it is based entirely on financial information submitted by the licensee, with no third-party assurance. DPS is reliant on this self-reported financial information from the licensee to gage compliance with these requirements.

4.136 DPS indicated it does have a Memorandum of Understanding with DOF to undertake audits of licensees. However, these audits are conducted when DPS believes there is a specific issue and not as a normal process to validate the financial records of the licensee or to determine ongoing compliance with eligibility requirements.

*DPS does not regularly
review or monitor
agricultural fair
association financial
records or eligibility
status for Charitable
Gaming activities*

4.137 DPS personnel told us they do not undertake sampling audits or other periodic monitoring to substantiate either the financial information provided by the agricultural fair associations or their ongoing eligibility.

4.138 We expected to find evidence in all files to support the eligibility of these associations as agricultural fairs and not-for-profit entities. We also expected at a minimum to find DPS reports or other documentation supporting periodic monitoring of these requirements by DPS, particularly for the incorporated associations.

4.139 We believe DPS does request information from various sources to support initial eligibility requirements as evidenced in four of the six files we reviewed.

However, we found no documentation or evidence detailing how this information is used to determine compliance with eligibility requirements or the results of the review, other than the issuance of licences to conduct charitable gaming events.

4.140 DPS does not document how it uses information to measure and verify an applicant's status as an agricultural fair association and a not-for-profit entity. For this reason DPS could not demonstrate how the information it collects serves to verify eligibility requirements.

4.141 DPS representatives confirmed that "*once an organization is deemed eligible for licensing, licensing officers do not go back to verify eligibility each year*". This means monitoring of continuing eligibility is not a standardized DPS practice.

4.142 We believe it is important to ensure applicants for Charitable Gaming licenses are initially eligible under the criteria of the program and this eligibility is reviewed on a periodic basis to verify continuing compliance with program requirements.

Recommendation

4.143 We recommend the Department of Public Safety develop a standardized process and implement associated procedures for evaluating initial and ongoing eligibility of agricultural fair associations for licensing under the Charitable Gaming program.

Conclusion

4.144 Although DPS requested documentation from some agricultural fair associations when they initially applied for a charitable gaming license, we concluded this was not done in all cases. Further, we could not determine how that information was used to assess eligibility under the Charitable Gaming program.

4.145 Finally, we could find no evidence of any ongoing monitoring of compliance with eligibility requirements specifically related to agricultural fair associations.

Department of Finance - Income tax exemption

4.146 In our initial review of agricultural fair associations, we identified a benefit in the form of a possible income tax exemption available to these organizations. We wanted to determine if the Province ensures compliance with the eligibility requirements to claim this exemption.

4.147 Income tax in New Brunswick is regulated under the *New Brunswick Income Tax Act*. With respect to exemptions however, section 10(1) of the Act states:

Agricultural Fair Associations may be exempt from income tax under two paragraphs in the Income Tax Act

DOF relies on the Federal interpretation respecting income tax exemptions for agricultural fair associations and not-for-profit entities

“No tax is payable under this Act by a person for a period when

(a) no tax is payable under Part I of the Federal Act on a person’s taxable income because of section 149 of the Federal Act”

4.148 Section 149 of the Federal *Income Tax Act* prescribes the rules for exemptions from income tax. There are two sections we believe may apply to agricultural fair associations.

4.149 Paragraph 149(e) of the Federal *Income Tax Act* provides an exemption to certain organizations, stating:

“an agricultural organization, a board of trade or a chamber of commerce, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof”

4.150 In its *“Income Tax Guide to the Non-Profit Organization (NPO) Information Return”*, the CRA defined agricultural organizations for the purposes of this paragraph as *“an entity organized and operated for one or more of the following purposes:*

- *the advancement or furtherance of agriculture;*
- *the betterment of the conditions of those engaged in agricultural pursuits;*
- *the improvement of the grade or quality of their pursuits; or*
- *the development of a higher degree of efficiency in their respective occupations.”*

4.151 We believe these definitions could include the agricultural fair associations recognized in New Brunswick and may result in their eligibility for this exemption from income tax if verified against applicable CRA criteria.

4.152 We asked DOF officials if DOF had ever reviewed the agricultural or non-profit status of the agricultural fair associations for income tax purposes. According to DOF, under the terms of the Canada/New Brunswick Tax Collection Agreement (agreement), the CRA is responsible for the monitoring function. They indicated to us that DOF relied solely on Federal interpretations respecting income tax exemptions, including not-for-profit

status. DOF officials told us they had never undertaken audits of these organizations for income tax purposes as this is a CRA responsibility under the agreement.

4.153 We believe it is important for the Province to work with the CRA to ensure organizations benefiting from income tax exemptions are evaluated for eligibility, as the exemption represents forgone revenue to the Province.

Recommendation

4.154 We recommend the Department of Finance request Canada Revenue Agency undertake audits of Agricultural Fair Associations currently exempted from provincial income tax to verify the eligibility status of these organizations.

Conclusion

4.155 Based on our review, we found there is no monitoring of compliance with agricultural fair association status or not-for-profit status for income tax purposes at the provincial level. Under the terms of the agreement, the Province relies solely on Federal regulations and the CRA to ensure compliance with not-for-profit and agricultural status. This reliance on Federal oversight may result in the provision of provincial income tax exemptions to agricultural fair associations they are not eligible to receive.

Appendix I – Criteria

We developed four criteria to evaluate provincial oversight of agricultural fair associations.

1. The Department of Agriculture, Aquaculture and Fisheries should monitor compliance with the *Agricultural Associations Act* and Regulations.
2. Service New Brunswick should monitor eligibility of Agricultural Associations for exemptions under the *Assessment Act*.
3. Government should monitor compliance with Not-for-Profit and / or Agricultural Association status for purposes of lottery registration.
4. Government should monitor compliance with Not-for-Profit and/or Agricultural Association status for income tax purposes.

Each criterion was reviewed with the government department responsible in that area.