

Federal Court



Cour fédérale

Date: 20250217

Docket: T-820-24

Citation: 2025 FC 304

Ottawa, Ontario, February 17, 2025

PRESENT: The Honourable Madam Justice Blackhawk

BETWEEN:

HYOTA FARMS LTD.

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of a decision of the Farm Income Programs Directorate (“FIPD”), a branch of Agriculture and Agri-Food Canada (“AAFC”) dated March 11, 2024, denying Hyota Farms’ application for the 2019 AgriStability Program benefits (“Decision”).

[2] The Applicant argues that the Decision is not reasonable because they were unfairly impacted by the FIPD’s calculation methods that were not rationally connected to the marketplace realities of hog production. Accordingly, they request that this Court set aside the

Decision and allow the Applicant's 2019 application under the AgriStability Program, or in the alternative, refer the application back to the FIPD for redetermination.

[3] For the reasons that follow, this application is dismissed.

II. Background

A. *AgriStability Program*

[4] The *Farm Income Protection Act*, SC 1991, c 22 [*FIPA*] provides the legal foundation for the AgriStability Program. Pursuant to paragraph 4(1)(a) of the *FIPA*, the Governor in Council may authorize the Minister of AAFC to enter into agreements with provinces to provide for a net income stabilization program.

[5] The AgriStability Program is intended to assist agricultural producers with large, significant losses in income. It is administered through the AgriStability Program Guidelines ("Guidelines"); see also *Mac Berry Farms Limited v Canada (Agriculture and Agri-Food)*, 2022 FC 264 [*Mac Berry*] at paras 2–4).

[6] The Guidelines are an extension of the authority of the Canadian Agricultural Partnership, a Federal-Provincial-Territorial Framework Agreement on Agriculture, Agri-Food and Agri-Based Products Policy ("Agreement") that provides authority and guidance for the management of the AgriStability Program.

[7] The Respondent submits that there is no flexibility in the application of the Guidelines, unless specifically identified.

B. *Facts*

[8] The Applicant is a Canadian corporation that operates in the pork industry.

[9] On May 13, 2019, the Applicant confirmed its intention to participate in the AgriStability program for the 2019 fiscal year.

[10] On September 30, 2020, the Applicant submitted its 2019 Statement A AgriStability Form (“Statement A”) to the AAFC (“Application”), via their accountant at Deloitte LLP. At that time, the Applicant advised the FIPD that, due to a change in the control structure of the company, there was a change in its year end date from June 30th to December 28th.

[11] The change in year end date resulted in two end dates for the 2019 fiscal year: June 30, 2019, and a stub period ending December 28, 2019. The Applicant advised that the information in its 2019 Statement A was based on a “combine and pro-rate method,” where the Applicant had taken revenues and expenses from the 18-month period (July 1, 2018 – December 28, 2019) and pro-rated it back to a 365-day period.

[12] On June 24, 2021, the FIPD requested additional information concerning the amount of swine income reported in the Application, noting that the amounts appeared to be lower than expected based on the Applicant’s livestock inventory valuation and productive capacity.

[13] On September 8, 2021, the Applicant provided two Statement A forms to the FIPD in support of its Application: one for July 1, 2018 – June 30, 2019, and a second for July 1, 2019 – December 28, 2019. The Applicant requested that the two new Statement A forms replace the previously submitted Statement A, dated September 30, 2020.

[14] On October 27, 2021, the FIPD calculated the Applicant's AgriStability Program benefits ("COB") to be \$0.00 ("First 2019 COB"). In other words, the Applicant was not eligible for payment of 2019 AgriStability Program benefits.

[15] The Applicant's accountant and the FIPD were in communication about the Application between November 2021 and 2023.

[16] On April 27, 2023, the Applicant submitted an adjustment request to information previously submitted pertaining to utilities. On May 17, 2023, the FIPD issued a revised COB that accounted for the utility adjustments, but still calculated the Applicant's benefits to be \$0.00 ("Final 2019 COB").

[17] On May 25, 2023, the Senior Manager, Program Policy for FIPD forwarded to the Applicant's accountant a detailed email explanation:

As you indicated, Hyota Farms changed their year-end in 2019 from June to December, creating a long year (18 months). Under AgriStability program rules, long years such as these are prorated to reflect a 12 month period. Prorating is done to the income and expenses, as well as the accrual information such as inventories, deferred income and accounts payable. While we do understand that starting and ending accruals are based on a point in time, they do reflect the activities of the farming operation over a period of time. It is important to note that it is the accrual adjustment over this 'period of time' (i.e. the net increase/decrease between starting and ending) that is being prorated, not the actual ending amount reported. Therefore, because no changes are made to the ending amounts reported, they carry forward as the start of year accruals for the 2020 program year.

Under AgriStability program rules, participant's fiscal periods ending within the same calendar year are combined and prorated to reflect a 12 month period. Proration of the income, expenses and accrual adjustments allows for a better apples to apples comparison between the long year and all the other years used in the calculation of program benefits that were reported on a 12 month

period. Proration, which includes the accrual adjustments, has been consistently applied to files where proration is necessary.

Based on the above rationale, the proration of Hyota Farms margin for the 2019 program year was completed correctly and is consistent with the treatment of other farms in similar situations.

[18] On August 22, 2023, the Applicant submitted an Appeal Submission Form, in which they argued that the calculations should be based on 18 data points for inventory averaging, not the two beginning and ending month data points as set out in the Guidelines. They argued that the AgriStability Program calculation method was not reasonable because it distorted the economic realities of their business.

[19] On March 11, 2024, the AgriStability Appeals division contacted the Applicant to advise that its appeal request was denied and confirmed that no AgriStability Program benefit was payable for the 2019 fiscal year. The letter states in part that:

The review of your appeal is now complete and after careful consideration, the Administration has determined that your request for an appeal be denied. According to the rules stated in the AgriStability Program Guidelines there is no authority that allows for an exception to the Guidelines in this case.

[20] On April 10, 2024, the Applicant filed this application for judicial review.

C. *Applicable Legislation and Policy*

[21] The preamble and paragraph 4(2)(a) of the *FIPA* are reproduced below:

An Act authorizing
agreements between the
Government of Canada and
the provinces to provide for
protection for the income of
producers of agricultural
products and to enable the
Government of Canada to take

Loi habilitant le
gouvernement du Canada,
d'une part, à conclure avec les
provinces des accords visant
la protection du revenu des
producteurs agricoles et,

additional measures for that purpose	d'autre part, à prendre d'autres mesures à cette fin
...	[...]

Statement of principles

Critères

4 (2) In negotiating an agreement authorized under subsection (1), the Minister shall take into consideration the following principles in respect of any program to be established under the agreement:

4 (2) Les critères dont le ministre tient compte en l'occurrence sont :

(a) the program should not unduly influence the decisions of producers of agricultural products with respect to production or marketing, and should encourage adjustments with respect to production or marketing so as to improve the effectiveness of the responses of producers to market opportunities;

a) le maintien du libre choix des producteurs, qui ne doit pas être indûment restreint par le régime ou programme, lequel vise à permettre à ceux-ci de mieux s'adapter aux contraintes du marché en ce qui touche la production et la commercialisation;

[22] Clause 5.7 of Annex A: AgriStability and AgriInvest Agreement states:

Program Guidelines

5.7 Program Guidelines shall be established to specify the details of eligibility and payment calculations and any other interpretation or clarification required for the proper operation of AgriStability and AgriInvest on a basis that is consistent with this Agreement and consistent across participating Provinces or Territories.... The Administrator and the Administering Party shall adhere to the Program Guidelines.

[23] The relevant sections from the Guidelines are:

4.4 Program Year Margin

For Participants who report Current Program Year information on a cash basis, the Administrator shall adjust the Program Year Margin for changes in Inventories using the Hybrid Inventory Adjustment, and shall also make adjustments for changes in accounts payable and receivable, and prepaid expenses.

For Participants who report Current Program Year information on an accrual basis, the Administrator shall adjust the Program Year Margin for changes in Inventories using the Hybrid Inventory Adjustment.

Where Program Years are less than 12 months, they will be treated as a Stub Period (see clause 4.6).

4.4.1 Hybrid Inventory Adjustment

Where margins are adjusted using the Hybrid Inventory Adjustment for a Program Year, Inventory shall be included in the margin by calculating the difference between (a) the ending quantity multiplied by the ending price; and (b) the beginning quantity multiplied by the beginning price, with the following exceptions:

- Inventory of breeding livestock and culled breeding livestock shall be included in the margin by calculating the difference between (a) the ending quantity multiplied by the ending price; and (b) the beginning quantity multiplied by the ending price.
- For Inventory of Perishable Crops, or commodities marketed through marketing pools, the Administrator may apply a receivables adjustment to more accurately reflect the income associated with the crop production in that Program Year.

The Hybrid Inventory Adjustment shall be applied to margins reported on an accrual basis only with respect to Inventory of breeding livestock and culled breeding livestock.

...

4.6 Greater than 12 months or Stub Periods

Participant's fiscal periods ending within the same calendar year may be combined by the Administrator. If they represent a period greater than 12 months (long year), the combined income and

expenses will be prorated to reflect a 12 month period and neither of those periods will be considered a Stub Period.

However, if within the long year, the Participant completes only the number of Production Cycles the operation would expect to complete in a 12 month period the Administrator may consider the long year as the full fiscal period and not prorate the long year to reflect a 12 month period.

If a Participant's fiscal period represents less than 12 months (a Stub Period) or if the combined fiscal periods ending within the same calendar year jointly represent less than 12 months, the income statement for this Stub Period will be combined with the information from preceding statements until a minimum period of 12 months is available. The combined income and expenses will be prorated to reflect a 12 month period.

However, if at least one Production Cycle is completed within a Stub Period, the Administrator may consider the Stub Period as the full fiscal period in calculating the Production Margin for that Program Year (whether it is the Current Program Year or a reference year) and apply, if the Administrator determines it is needed, a Structural Change adjustment to reflect the Stub Period.

Separate income statements must be provided for each fiscal period.

As a result of a change in a Participant's year end, the Participant may have a reference year in which no fiscal year end occurred and the Farming Income (or loss) for the farming activity during that time was reported for income tax purposes in the subsequent tax year. The Administrator may create a margin for that reference year based on the farm's productive capacity of the Current Program Year.

Participants changing their year-ends within a Program Year will, for that Program Year, be bound by their fiscal year-end deadlines at the beginning of the Program Year for the purposes of the Enrolment Notice.

III. Issues and Standard of Review

[24] The sole issue to be determined is whether the Decision to deny the Applicant the AgriStability benefit for 2019 was reasonable.

[25] I agree with both parties that the applicable standard of review in this case is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at paras 25, 86).

[26] Reasonableness review is a deferential standard and requires an evaluation of the administrative decision to determine if the decision is transparent, intelligible, and justified (Vavilov at paras 12–15, 95). The starting point for a reasonableness review is the reasons for decision. On an application for judicial review, the Court is to show restraint and not determine the issue. Rather, the Court is to ask if the decision falls within a range of reasonable outcomes open to the decision maker (Vavilov at para 83). A reasonable decision is “one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker” (Vavilov at para 85). The history and context of the proceedings are important considerations for a reviewing court, including the applicable policies and/or guidelines that inform the decision maker’s work, and past decisions of the relevant administrative body (Vavilov at paras 85, 94).

[27] To intervene on an application for judicial review, the Court must find an error in the decision that is central or significant to render the decision unreasonable (Vavilov at para 100).

IV. Analysis

[28] The Applicant submitted that the pork industry experiences volatile cyclical extremes in pricing. Typically, there are high prices in June and low prices in December. The calculations for AgriStability Program benefits are impacted by hog prices at year end dates, because these are used as the start and end points for calculating the value of an applicant’s inventory.

[29] The Applicant submitted that the FIPD's policy of using two data points from the start and end points in the production cycle for comparison is inherently unfair because it distorted the realities of the marketplace in which the Applicant operates. The Applicant submitted that a weighted average that uses the same pricing numbers but considers all 18 months of data is a more accurate and fair method to calculate their eligibility.

[30] Further, the Applicant argued that the FIPD's rigid and blind application of the Guidelines ignores the Applicant's factual reality and departs from the legislative intent of the AgriStability Program.

[31] The Respondent argued that the context of an administrative decision assists in determining what is within a reasonable range of outcomes in any given case. They argued that the contextual constraints applicable here are section 4.4.1 of the Guidelines for Hybrid Inventory Adjustment and the fact that the Applicant changed their year end month to December.

[32] Further, the Respondent argued that the Decision is justified, intelligible, and transparent because the record, which includes numerous emails and communications between the FIPD and the Applicant's accountant, clearly explains the Decision and the decision making process.

[33] I agree with the Respondent that it would be irrational and without justification for the FIPD to deviate from the calculation methods established in the Guidelines. The Applicant's dissatisfaction with how their business decision impacted their eligibility for the AgriStability Program benefits does not render the Decision unreasonable.

A. *Change in the Applicant's position*

[34] The Applicant argued that the calculation method used by the FIPD did not accurately reflect the change in the company's position. In an email dated October 19, 2022, the Applicant's accountant identified anomalies that resulted from the FIPD's proration method. In particular, the accountant noted that the proration method used incorrectly included the change in ending accruals/inputs.

[35] The Respondent submitted that the FIPD calculated the 2019 Program Year Margin by prorating income and expenses, including accruals for the 18-month period that was created by the Applicant's change in fiscal year end (Guidelines, ss 4.4 and 4.6).

[36] The change in year end was determined by the Applicant. Accordingly, any resulting unfairness is directly attributable to their decision to alter the year end date. It is unclear from the record why the Applicant selected December, despite knowing that this is a low price point for hogs.

[37] The change in year-end date for the 2019 fiscal year created two year end points. The Guidelines clearly state that "[w]here margins are adjusted using the Hybrid Inventory Adjustment for a Program Year, Inventory shall be included in the margin by calculating the difference between (a) the ending quantity multiplied by the ending price; and (b) the beginning quantity multiplied by the beginning price" (s 4.4.1).

[38] Accordingly, it is clear that the FIPD's reliance on the beginning and ending prices was consistent with the Guidelines.

B. *Consistency in the application of the Guidelines*

[39] The Respondent argued that applying the Guidelines in a consistent manner ensures fairness, transparency, and consistency in the management of the AgriStability Program between the federal and provincial jurisdictions.

[40] The Applicant argued that policies that guide and govern the administration of federal programs may be struck if they are found to be arbitrary. In addition, the Applicant argued that the FIPD fettered its discretion through a rigid application of the Guidelines, without regard to the factual context. They noted that policy guidelines are not law and cannot mandate or limit how decision makers are to exercise their discretion.

[41] I agree with the Respondent that it did not “solicit advice” from provincial administrators. Rather, the FIPD contacted other parties to the Agreement to determine how other jurisdictions would apply the Guidelines in a similar situation. Further, a review of the record confirms that the FIPD checked with Saskatchewan about the Cobalt Farms case raised by the Applicant.

[42] In my view, it was reasonable and appropriate for the FIPD to ensure that the Guidelines were applied consistently across participating provinces and territories (Agreement, clause 5.7).

[43] In *Vavilov*, the Supreme Court of Canada noted that administrative decisions must be read in light of the history and context of the applicable administrative framework (at para 94). Reviewing courts may consider “publicly available policies or guidelines that informed the decision maker’s work, and past decisions of the relevant administrative body. This may explain an aspect of the decision maker’s reasoning process that is not apparent from the reasons

themselves, or may reveal that an apparent shortcoming in the reasons is not, in fact, a failure of justification, intelligibility or transparency” (*Vavilov* at para 94).

[44] The Applicant argued that the effect of the FIPD’s approach skewed the outcome in the context of their operations, and that the outcome is not reasonable. While I am sympathetic to the Applicant’s position, the outcome in this case cannot be said to be unreasonable.

[45] I agree with the Applicant that the Guidelines are policy and not law. However, this Court has recognised that administrative bodies often develop guidelines to assist in the exercise of their discretionary powers (*Boyko v Canada (Minister of Agriculture)*, 2000 CanLII 15205 (FC) [*Boyko*] at para 13). Courts should exercise caution and restraint when reviewing complex administrative actions. Reviewing Courts should tread carefully where the administrative body has exercised its discretion in good faith; where reliance has not been placed on irrelevant or extraneous considerations to the statutory purpose; and where the administrative body has not blindly applied a policy developed to assist in the exercise of general duties (*Boyko* at paras 13–14).

[46] Having considered the applicable context, the *FIPA*, the Agreement, and the Guidelines, the Decision is reasonable. There is no evidence of administrative bad faith or reliance on irrelevant or extraneous considerations to the purpose of the AgriStability Program.

[47] In addition, the Applicant relied on this Court’s decision in *Mac Berry*, where the applicant’s claim for benefits was similarly denied due to a rigid application of the Guidelines (at para 10). Further, they noted that, similar to *Mac Berry*, the FIPD’s Decision is not clear or transparent because it did not attempt to explain why the Applicant’s method of calculation was

not applied, nor why the FIPD was constrained by guidelines that are not law (*Mac Berry* at paras 43–45).

[48] I agree with the Respondent that *Mac Berry* is distinguishable from this application. In *Mac Berry*, it could not be determined how the FIPD calculated the negative benefit from the record. In contrast to the present case, having considered the applicable contextual factors, the Decision is clear. Both the First 2019 COB and Final 2019 COB contain thorough summaries of the calculations performed, changes to information as set out in the Applicant's Statement A filings, detailed Reference Margin calculations, and detailed Reference Margin Structural Change Adjustments. The Final 2019 COB is justified, transparent, and intelligible. I will also note that the record highlights numerous communications between the Applicant's accountant and the FIPD that clearly discloses a rational chain of analysis that justifies the Decision.

[49] Finally, the Applicant asserted that the Decision is contrary to the legislative intent of the AgriStability Program. I do not agree. The AgriStability Program is "intended to assist producers (farmers) with income and production losses" and is administered pursuant to the Guidelines (*Mac Berry* at para 2). The eligibility calculations for each year are defined by and subject to the Guidelines (*Mac Berry* at paras 2–5).

V. Costs

[50] The Respondent also seeks costs of this application. The general and longstanding practice is that costs follow the event for a successful party (*Whalen v Fort McMurray No 468 First Nation*, 2019 FC 1119 at paras 2–4, 7–9).

[51] The principal objectives of an award of costs are to provide indemnification to the successful party; penalize a party refusing a reasonable settlement; and sanction behavior that increases the expense of litigation or is otherwise unreasonable or vexatious (*Allergan Inc v Sandoz Canada Inc*, 2021 FC 186 [*Allergan*] at paras 19–20).

[52] I am of the view that it is appropriate to order costs in this matter. Having regard to Rules 400, 401, 407, and Tariff B, including the factors articulated in Rule 400(3), of the *Federal Courts Rules*, SOR/98-106 the costs of this judicial review are awarded pursuant to Tariff B, the mid-range of Column III (*Allergan* at para 25).

VI. Conclusion

[53] While I appreciate that the Applicant is not happy with the Decision, that does not render the Decision unreasonable. The Applicant has not persuaded me that the Decision is unreasonable in view of the applicable factual and legal constraints.

JUDGMENT in T-820-24

THIS COURT’S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. Costs are awarded to the Respondent pursuant to Tariff B, the mid-range of Column III.

“Julie Blackhawk”
Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-820-24

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GENERAL OF CANADA

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