



2023

Annual Performance Report

for

**The Appeal Board of the
Professional Fish Harvesters
Certification Board**

Message from the Chairperson

On behalf of the Appeal Board of the Professional Fish Harvesters Certification Board (the Appeal Board), I am pleased to present our Annual Performance Report for 2023, the first reporting year of our 2023-2025 planning cycle. As Chairperson, I accept accountability for the results reported and for ensuring that the information in this report is accurate and thorough. This document has been prepared in consultation with the other Appeal Board members.

The Appeal Board is recognized as a category three public body by the Government of Newfoundland and Labrador, with all three members appointed by the Minister of Fisheries, Forestry and Agriculture (FFA) in accordance with the **Professional Fish Harvesters Act** (the Act). This report is submitted as part of our reporting obligations under the **Transparency and Accountability Act**. The Appeal Board serves the professional fish harvesters of this province, and in this capacity, we take great pride in performing our duties and meeting the objective as outlined in the 2023-2025 Activity Plan.

Though the Appeal Board is a relatively small public body, it continues to make an essential contribution to the Professional Fish Harvesters Certification Board (PFHCB) and the commercial fish harvesters of Newfoundland and Labrador. The structure, purpose and operations of the Appeal Board are established in the Act, and we confirm that in 2023 all activities of the Appeal Board were conducted accordingly.

Finally, as Chairperson of the Appeal Board, I take this opportunity to thank the staff of the Professional Fish Harvesters Certification Board for their assistance and support in 2023.

Sincerely,

A handwritten signature in black ink that reads "Brendan J. Condon". The signature is written in a cursive style with a large, looped initial 'B'.

Brendan Condon
Chairperson, Appeal Board of the PFHCB

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1.0 Overview

The PFHCB became operational in 1997 following proclamation of the Act by the Newfoundland and Labrador House of Assembly. This legislation allowed for the establishment of an appeal board and an independent appeal process. The Minister responsible for fisheries in 1997 established the Appeal Board in accordance with the Act, and it has been operational each year since.

Any professional fish harvester whose certification is refused by the PFHCB, or who is dissatisfied with the certification status they are given, may appeal to the Appeal Board. The decision of the Appeal Board is final and binding on the PFHCB and the appellant.

1.1 Mandate

The mandate and legislative objectives of the Appeal Board are outlined in sections 14 to 18 of the Act, available at: <https://www.assembly.nl.ca/Legislation/sr/statutes/p26-1.htm>

1.2 Current Appeal Board Members and Support Staff

The Appeal Board consists of three members appointed by the Minister of FFA (the Minister). The Appeal Board members as of December 31, 2023, were:

- Brendan Condon – Chairperson
- Gilbert Penney – Fish Harvester Representative
- Jarvis Walsh – Fish Harvester Representative

At the request of the Chairperson of the Appeal Board, the PFHCB staff members provide administrative support to the Appeal Board.

1.3 Primary Clients

The primary clients of the Appeal Board are professional fish harvesters certified with the PFHCB. More specifically, the Appeal Board serves any fish harvester whose certification is refused by the PFHCB or who is dissatisfied with their certification status, and who files a notice of appeal with the PFHCB.

1.4 Lines of Business

The Appeal Board has a single line of business: the provision of an independent appeal process for any person who files a notice of appeal with the Executive Director of the PFHCB. All business is conducted in accordance with sections 14 to 18 of the Act.

The Appeal Board convenes at least once per year to hear appeals throughout the province in as many locations as possible, based on the number and location of appellants. Appeals are normally conducted as close to the start of the fishing season as possible, in order to ensure that appeal outcomes are received by the appellant prior to the start of the season. However, while the Appeal Board is committed to convening a minimum of once per year, the number of appeal requests sometimes warrant the Appeal Board convening more than once per year. Each time the Appeal Board convenes, all fish harvesters who have requested an appeal are offered an appeal hearing during that round of appeals.

Appeal results are approved and signed by the Appeal Board members and presented to the PFHCB Executive Director and typically, appellants are notified of their appeal outcome in writing within three weeks of the appeal hearing.

1.5 Vision

Members of the Appeal Board adopt the vision of the PFHCB. The PFHCB and the Appeal Board's vision is a viable Newfoundland and Labrador commercial fishery, sustained by independent professional fish harvesters committed to demonstrating appropriate knowledge, skills and commitment to safely and successfully meet the human resources needs of their industry from which they can maintain their livelihood with respect and dignity.

The Appeal Board supports and contributes to this vision by ensuring, through the appeals process, that each appellant receives a thorough independent assessment of all information pertinent to PFHCB certification and is subsequently awarded a certification level that is fair, equitable, and consistent with PFHCB certification criteria and the Act.

1.6 Location and Contact Information

The Appeal Board itself has no fixed location. As per subsection 14(2) of the Act, notices of appeal should be filed with the PFHCB Executive Director, using the following contact information:

PFHCB Executive Director
368 Hamilton Avenue
P.O. Box 8541
St. John's, NL A1B 3P2
709-722-8170 (phone)
709-722-8201 (fax)
pfh@pfhcb.com
www.pfhcb.com

General inquiries about the Appeal Board or appeals process can be directed to the PFHCB office using the contact information provided above. Copies of this report are available in alternate format.

1.7 Finances

The expenditures associated with the Appeal Board, and independent appeals process, are covered by the annual operating budget of the PFHCB. Those expenditures include travel costs of Appeal Board members, administrative costs associated with the delivery of appeals, and the per diem remunerations for Appeal Board members. There are no fees charged to fish harvesters for appealing their certification status, but appellants are responsible for all travel costs associated with attending their appeal. Every effort is made by Appeal Board members and support staff to conduct the appeals process in a thorough, timely and cost-effective manner.

Annual Appeal Board expenditures are audited and included in the audited financial statements of the PFHCB. Total Appeal Board expenditures for 2023 was \$13,755 (rounded cents):

Appeal Board member Per Diems: \$5,250
Travel Expenditures: \$6,449
Meeting Rooms: \$473
Administration: \$1,583

2.0 Highlights and Partnerships

The Appeal Board convened one time in 2023, conducting a total of 11 appeals. All appeals were heard between November 20 and November 23. All 11 appeals were new requests received in 2023. In order to accommodate all appellants and minimize driving time to and from appeal hearings, the Appeal Board conducted appeals in four different locations throughout the province – St. John’s, Gander, Deer Lake and Hawkes Bay. Additionally, one appellant requested to have their appeal heard by teleconference. The following is a summary of all eleven appeal hearings conducted in 2023.

Summary of 2023 Appeals (January 1 – December 31, 2023)

<u>Date of Appeal Request</u>	<u>Date of Appeal</u>	<u>Home Region</u>	<u>Appeal Location</u>
April 11, 2023	November 20, 2023	Northern Peninsula	Hawkes Bay
September 1, 2023	November 20, 2023	Northern Peninsula	Hawkes Bay
June 19, 2023	November 21, 2023	West Coast	Deer Lake
May 5, 2023	November 21, 2023	West Coast	Deer Lake
August 22, 2023	November 21, 2023	West Coast	Deer Lake
March 12, 2023	November 22, 2023	Northeast Coast	Gander
September 3, 2023	November 22, 2023	Northeast Coast	Gander
March 1, 2023	November 23, 2023	Avalon	St. John’s
September 15, 2023	November 23, 2023	Avalon	St. John’s
May 30, 2023	November 23, 2023	Avalon	St. John’s
August 30, 2023	November 23, 2023	Burin Peninsula	St. John’s ¹

¹ Appeal was conducted by teleconference at appellant’s request.

As summarized above, 11 appellants had appeal hearings in 2023. At the time of the appeals, seven appellants were registered as Apprentice fish harvesters, and four were registered as Level I fish harvesters. Of the 11 appellants, 73 per cent (8 of 11) received no change in their certification status as a result of their appeal. The outcomes of the 11 appeals are as follows:

- 6 appeals – Apprentice – No change in status
- 1 appeal – Apprentice – No change in certification level, but additional years awarded
- 2 appeals – Level I – No change in status
- 2 appeals – Level I – Upgraded to Level II

A full description and explanation of the three levels of PFHCB certification (Apprentice, Level I and Level II), as well as related certification criteria, can be found on the PFHCB website at www.pfhcb.com.

3.0 Report on Performance

In the Appeal Board's 2023-2025 Activity Plan, a single strategic issue was identified, relating to the Appeal Board's ability to maintain a timely delivery of appeal hearings in regional proximity to appellants. As the focus of the Appeal Board will remain the same for all three years of this planning cycle, the Appeal Board will report on the same objectives and indicators in all three years (2023, 2024 and 2025).

Issue: The Timely Delivery of Appeals in Regional Proximity to Appellants

Objective #1: By December 31, 2023, the Appeal Board will have conducted appeals, in a timely manner and in all regions of the province where appellants are located.

Indicators:

- Offered face-to-face appeals to appellants in their own region of the province no more than 12 months from the date the appeal request was received.

In 2023, the Appeal Board, with the assistance of PFHCB support staff, succeeded in meeting this indicator. All 11 appeals were held from November 20 – November 23, 2023. The 11 appellants were each offered a face-to-face appeal hearing within a year of their appeal request, with the average wait time for an appeal being 152 days (approximately five months) and the maximum being 255 days.

Of the 11 appellants, one requested to have their appeal heard via teleconference. For the 10 remaining appeals, the Appeal Board was successful in meeting its objective as it relates to offering appeals in regional proximity to appellants. The average drive time for all appellants to their appeal hearing was less than one hour and the maximum drive time for any one appellant was approximately three and a half hours. For each appeal, one hour was allocated for all appeal hearings and Appeal Board members were provided with a copy of

all information contained in the appellant's PFHCB file for review in advance of the appeal hearing.

- Provided appeal results to appellants within three weeks of the date of the appeal hearing.

In 2023, the Appeal Board was successful in meeting this indicator. Appeal results were mailed to all appellants within eight business days of their appeal hearing.

4.0 Opportunities and Challenges

The Appeal Board continues to provide an essential service to approximately 9,000 certified fish harvesters registered with the PFHCB. For the sixth consecutive year, the number of appeal requests in 2023 did not necessitate the Appeal Board convening more than one time in the calendar year. The number of appeal hearings per year during that six-year period ranged from a high of 23 in 2018 to a low of 10 in 2022. This trend indicates relative consistency in the total number of appeal requests year-over-year. However, there is no way to predict the number or timing of appeal requests. Nor is there any way to predict the geographical distribution of appellants. Therefore, there continues to be uncertainty and annual variation in the location and number of appeals being requested. Despite these uncertainties, the Appeal Board and PFHCB support staff remain committed to meeting the stated objectives in an efficient and cost-effective manner.

The Appeal Board remains committed to providing every certified fish harvester the opportunity of an independent appeal process, meeting the objectives stated in our current 2023-2025 Activity Plan and meeting the planning and reporting obligations of the **Transparency and Accountability Act**.

5.0 Additional Information

Inquiries or comments on the contents of this report should be directed to:

Chairperson, Appeal Board of the PFHCB
C/O Professional Fish Harvesters Certification Board
368 Hamilton Avenue
P.O. Box 8541
St. John's, NL A1B 3P2
709-722-8201 (fax)
pfh@pfhcb.com