



2022

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 2022, the third and final reporting year of our 2020-2022 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 classified as a category three public entity 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 our capacity as the current Appeal Board appointees, we take pride in performing our duties and meeting the objective of the Appeal Board as outlined in its 2020-2022 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 during each reporting period of the 2020-2022 planning cycle, 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 PFHCB for their assistance and support throughout this planning cycle.

Sincerely,

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

Brendan Condon
Chairperson, Appeal Board of the PFHCB

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1.0 Overview

The Professional Fish Harvesters Certification Board (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 14-18 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). As of December 31, 2022, the Appeal Board members included the following:

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

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

1.3 Primary Clients

The primary clients of the PFHCB 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 location of appellants. Appeals are normally conducted as close to the start of the fishing season as possible, in an effort to ensure that appeal outcomes are received 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. However, in the three years covered by this planning cycle, the Appeal Board has convened only once in each calendar 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 two 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 PFHCB 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 Section 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 PFHCB 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 any/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, yet expeditious 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 2022 were \$13,531 as outlined below:

Appeal Board member Per Diems: \$5,250
Travel Expenditures: \$4,932
Meeting Rooms: \$697
Administration: \$2,652

2.0 Highlights and Partnerships

The PFHCB Appeal Board convened one time in 2022, conducting a total of 10 appeals. All appeals were heard between November 7 and November 9. All 10 appeals were new requests received in 2022. In order to accommodate all appellants and to minimize driving time to and from appeal hearings, the Appeal Board conducted appeals in five different locations throughout the province – St. John’s, Clarenville, Grand Falls, Deer Lake and Corner Brook. One appellant requested to have their appeal heard by teleconference. The following is a summary of all appeal hearings conducted in 2022.

November 7 – November 9, 2022 (10 appeals in total)

<u>Appeal Request Date</u>	<u>Date of Appeal</u>	<u>Home Region</u>	<u>Appeal Location</u>
April 25, 2022	November 7, 2022	West Coast	Corner Brook
August 22, 2022	November 7, 2022	West Coast	Corner Brook
October 7, 2022	November 7, 2022	South-West Coast	Corner Brook
May 2, 2022	November 7, 2022	Northern Peninsula	Deer Lake
Sept 28, 2022	November 7, 2022	Northern Peninsula	Deer Lake
March 30, 2022	November 7, 2022	Northern Peninsula	Deer Lake
February 21, 2022	November 8, 2022	South Coast	Grand Falls ¹

<u>Appeal Request Date</u>	<u>Date of Appeal</u>	<u>Home Region</u>	<u>Appeal Location</u>
June 9, 2022	November 9, 2022	North East Coast	Clareville
October 1, 2022	November 9, 2022	Avalon	St. John's
October 18, 2019	November 9, 2022	Avalon	St. John's

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

As summarized above, 10 appellants had appeal hearings in 2022. At the time of the appeals, six were registered as Apprentice fish harvesters, and four were registered as Level I fish harvesters. Of the 10 appellants, 70 per cent received no change in their certification status as a result of their appeal. The outcomes of the 10 appeals are as follows:

- 4 appeals – Apprentice - No change in status
- 2 appeals – Apprentice - Deferred until additional information is provided
- 3 appeals – Level I - No change in status
- 1 appeals – Level I - Deferred until additional information is provided

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 2020-2022 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. An objective for 2022, accompanied by indicators was included, as follows:

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

Objective 1: By December 31, 2022, the PFHCB Appeal Board will have conducted appeals, in a timely manner, in all regions of the province where appellants are located.

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

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

The Appeal Board, with the assistance of PFHCB support staff, succeeded in meeting this stated objective for 2022. The 10 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 approximately four months and the maximum being approximately nine months. The Appeal Board was successful in meeting its objective as it relates to offering appeals in regional proximity to appellants. The maximum drive time for any appellant to the appeal venue was less than three hours, with the average being approximately one hour. 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. Appeal results were mailed to all appellants within 10 business days of their appeal hearing.

As previously stated, 2022 is the final year of the 2020-2022 planning period. The Appeal Board was successful in meeting its stated objective for each of the three years in this planning period. In total, 39 appeals were conducted as shown in the table below. In fulfillment of the objective to conduct appeals in a timely manner and in all regions of the province where appellants are located, all appellants during this planning cycle were offered a hearing within 12 months of the appeal request date and all appellants were offered a face-to-face appeal within a three-hour drive of their permanent residence.

4.0 Opportunities and Challenges

The Appeal Board continues to provide an essential service to approximately 10,000 certified fish harvesters registered with the PFHCB. The number of appeal requests in three years of this planning cycle did not necessitate the appeal board convening more than one time in the calendar year. The number of appeal hearings per year during that three-year period ranged from a high of 15 in 2020 to a low of 10 in 2022. The uncertainty and annual variation in the number of appeals being requested poses challenges for the Appeal Board and PFHCB support staff in meeting the stated objectives in an efficient and cost-effective manner. It also creates ongoing challenges for budgeting and planning, and low numbers of appeals usually result in higher average costs per appeal.

Notwithstanding these challenges, the Appeal Board remains committed to: providing every certified fish harvester the opportunity of an independent appeal process; meeting the objectives stated in its current Activity Plan; and meeting the planning and reporting obligations of the Act.

5.0 Additional Information

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

Chairperson, PFHCB Appeal Board
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