



2015

Annual Performance Report

for

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

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1.0 Message from the Chairperson

On behalf of the Appeal Board of the Professional Fish Harvesters Certification Board (Appeal Board), I am pleased to present our Annual Performance Report for 2015, the second reporting year of our 2014-2016 planning cycle. This document has been prepared in consultation with the other Appeal Board members, and we accept accountability for the results reported, and for ensuring that the information in this report is accurate and thorough.

The Appeal Board of the Professional Fish Harvesters Certification Board is recognized as a category three public entity by the Government of Newfoundland and Labrador, with all three members appointed by the Minister of Fisheries and Aquaculture. Therefore, we are submitting this report in fulfillment of our reporting obligations under the provincial *Transparency and Accountability Act*. We are privileged to serve the professional fish harvesters of this province in our capacity as the current Appeal Board appointees, and we take pride in meeting the objective of the Appeal Board, as outlined in our 2014-2016 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 and the commercial fish harvesters of Newfoundland and Labrador. The structure, purpose, and operations of the Appeal Board are established in the *Professional Fish Harvesters Act*, and we confirm that during this reporting period all activities of the Appeal Board were conducted accordingly.

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

Sincerely,



Brendan Condon
Chairperson, PFHCB Appeal Board

2.0 Overview

The Professional Fish Harvesters Certification Board (PFHCB) became operational in 1997 following proclamation of the *Professional Fish Harvesters Act* by the Newfoundland and Labrador House of Assembly. This legislation allows for the establishment of an Appeal Board, and an independent appeal process. The Minister established the Appeal Board in 1997, in accordance with the Act, and it has been operational each year since that time.

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

2.1 Mandate

The mandate of the PFHCB Appeal Board is outlined in sections 14-18 of the *Professional Fish Harvesters Act*, as follows:

Appeal to board

14. (1) A person whose certification is refused by the board or who is dissatisfied with the certification that he or she is given may appeal to the appeal board appointed under section 15.
- (2) A person who wishes to appeal a decision of the board with respect to his or her certificate shall file a notice of appeal with the executive director stating the ground for the appeal.
- (3) The executive director shall forward the notice of appeal to the appeal board and shall inform the appellant of the date, time and place at which the board will hear the appeal.

Appeal board

15. (1) The appeal board shall consist of 3 members appointed by the minister.
- (2) Two of the members shall be professional fish harvesters who are not members of the board chosen from a list provided by fish harvesters organizations.
- (3) The third member of the board shall not be a professional fish harvester and shall serve as the chairperson.
- (4) The members of the appeal board shall be appointed for a 3 year term and are eligible for re-appointment.

Date of appeal board

16. The appeal board shall review all the relevant information associated with an appellant's application to the board for certification and shall provide the appellant an opportunity to appear before the board in person or through a representative.

Decision of appeal board

17. The appeal board may confirm the decision of the board or may substitute the decision which it considers fair and just.

Decision final

18. The decision of the appeal board is final and binding on the board and the appellant.

2.2 Appeal Board Members and Support Staff

The Appeal Board consists of three members appointed by the Minister of Fisheries and Aquaculture. The current Appeal Board members are:

Brendan Condon – Chairperson
Roy Stone – Fish Harvester Representative
Doug Howlett – Fish Harvester Representative

PFHCB staff provide operational and administrative support for the Appeal Board.

*Robert Wilton's term as Appeal Board Chairperson ended on June 24, 2015. All 2015 Appeal Board activity had concluded by that date.

2.3 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 14-18 of the Act.

As required, the Appeal Board convenes (at least once per year) to hear appeals throughout the province. Appeals are conducted in as many locations as possible, based on the number and location of appeals to be heard.

Appeal results are approved and signed by the Appeal Board members and presented to the PFHCB Executive Director in a timely manner. Appellants are notified of their appeal outcome in writing by the PFHCB, accordingly.

2.4 Values

The Appeal Board's ability to provide an effective independent appeals process requires that both the PFHCB and the fish harvesters it certifies have a high level of confidence in the Appeal Board members and the service they provide. To this end, the Appeal Board adopts and promotes three key values: *Respect*, *Confidentiality* and *Impartiality*, as described in section 7.0 of the Appeal Board's 2014-2016 Activity Plan.

2.5 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 contributes to its 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 appropriately reflects their knowledge, skill and attachment to the industry.

2.6 Location and Contact Information

The Appeal Board itself has no fixed location. However, any correspondence, including appeal requests from certified fish harvesters, should be directed to Mark Dolomount, PFHCB Executive Director.

PFHCB Executive Director
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2.7 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 2015 were \$9,645.

3.0 Activities

The PFHCB Appeal Board convened once in 2015, and conducted four days of appeals from February 23-26, 2015. In order to accommodate all appellants, and minimize their driving time to and from their appeal hearing, the Appeal Board conducted appeals in three locations throughout the province – Corner Brook, Gander and St. John’s. Three appellants requested to have their appeals heard by teleconference. The following is a summary of appeal hearings conducted in 2015:

Spring 2015 Appeals (26 hearings in total)

<u>Date of Appeal Request</u>	<u>Date of Appeal</u>	<u>Home Community</u>	<u>Appeal Location</u>
November 10, 2014	February 23, 2015	York Harbour	Corner Brook
January 15, 2015	February 23, 2015	Lourdes	Corner Brook
May 6, 2014	February 23, 2015	Castor River North	Teleconference
January 22, 2015	February 23, 2015	Deer Lake	Corner Brook
April 19, 2014	February 23, 2015	Savage Cove	Corner Brook (upon request)
March 6, 2014	February 24, 2015	Summerville	Gander
April 29, 2014	February 24, 2015	Fogo	Gander
April 1, 2014	February 24, 2015	Durrell	Gander
February 5, 2015	February 24, 2015	Harbour Breton	Gander
February 2, 2015	February 24, 2015	Hermitage	Gander
September 23, 2014	February 25, 2015	Witless Bay	St. John’s
June 10, 2014	February 25, 2015	Jerseyside	St. John’s
July 28, 2014	February 25, 2015	Brownsdale	St. John’s (upon request)
August 4, 2014	February 25, 2015	Point Lance	St. John’s
September 10, 2014	February 25, 2015	Branch	St. John’s
May 6, 2014	February 25, 2015	Fermeuse	St. John’s
May 21, 2014	February 25, 2015	St. John’s	St. John’s
February 2, 2015	February 25, 2015	Arnolds Cove	St. John’s
February 2, 2015	February 25, 2015	Hickman’s Harbour	Teleconference
January 21, 2015	February 26, 2015	Mount Pearl	St. John’s
January 28, 2015	February 26, 2015	Upper Island Cove	St. John’s

January 16, 2015	February 26, 2015	Bay L' Argent	St. John's (upon request)
May 15, 2014	February 26, 2015	Ramea	Teleconference
February 13, 2015	February 26, 2015	St. Mary's	St. John's
February 23, 2015	February 26, 2015	North Harbour	St. John's
October 1, 2014	February 26, 2015	Burnt Islands	St. John's (upon request)

Twenty-six appellants had appeal hearings in 2014. At the time of the appeals, 14 were registered as Apprentice fish harvesters, 4 were registered as Level I fish harvesters, and 8 were not approved for certification. The outcomes of the 26 appeals were as follows:

Twelve appeals – No change in status

Seven appeals – Apprentice upgraded to Level I

Two appeals – Apprentice upgraded to Level II

Three appeals – Level I upgraded to Level II

Two appeals – Level II status reinstated

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.

3.1 Outcome of Objectives

In the Appeal Board's 2014 - 2016 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 2015, accompanied by a performance measure and indicators was included, as follows:

Objective #2: By December 31, 2015, the PFHCB Appeal Board will have conducted appeals, in a timely manner, in all regions of the province where appellants are located.

Measure: Appellants were offered a timely face-to-face appeal in their own region of the province.

Indicators: Each appellant was offered an appeal within a maximum of 12 months of their appeal request.

Each appellant was offered a face-to-face appeal.

Each appellant was offered an appeal hearing within 3 hours drive of their permanent residence.

The Appeal Board, with the assistance of PFHCB support staff, succeeded in meeting this stated objective for 2015. The 26 appellants were each offered a face-to-face appeal hearing within twelve months of the date of their appeal request.

Of the 26 appellants, three requested to have their appeal heard via teleconference, and four appellants requested to have their appeal heard at a location outside their own region. So, in these seven cases, proximity of the appellant's home community was not a factor. For the 19 remaining appeals, the Appeal Board was successful in meeting its objective as it relates to regional proximity to appellants. In all these cases, the maximum drive time from home to the appeal venue, for any individual, was no more than three hours.

3.2 Objectives for 2016

As outlined in the Appeal Board's 2014-2016 Activity Plan, a single issue is presented for 2016. Our objective is limited to logistics of appeal delivery, as it would not be appropriate to deal with the specifics of individual appeal hearings and/or their respective outcomes.

Issue #1 – The Timely Delivery of Appeals in Regional Proximity to Appellants

Each year since its inception in 1997, the Appeal Board has conducted appeals throughout Newfoundland and Labrador. Until 2010, appeals were scheduled twice per year - spring and fall - in all areas of the province where appellants were located.

During recent years, the number of appeal requests has varied significantly from year to year, from a low of 3 in 2010, to a high of 26 in 2015. As a result, it is difficult for the Appeal Board to offer face-to-face appeals in all areas of the province twice per year. Therefore, the Board will continue to offer appeal hearings within 12 months of receiving an appeal request. This will assist the Appeal Board in meeting its stated objectives, in an efficient and cost effective manner, for this planning period.

Objective #3: By December 31, 2016, the Appeal Board will have conducted appeals, in a timely manner, in all regions of the province where appellants are located.

Measure: Appellants were offered a timely face-to-face appeal in their own region of the province.

Indicators: Each appellant was offered an appeal within a maximum of 12 months of their appeal request.

Each appellant was offered a face-to-face appeal.

Each appellant was offered an appeal hearing within 3 hours drive of their permanent residence.

4.0 Opportunities and Challenges Ahead

The PFHCB Appeal Board continues to provide an essential service to over 9,000 certified fish harvesters registered with the Professional Fish Harvesters Certification Board. Following a period of overall downward trending of appeal numbers, in 2015 there was an unanticipated spike in the total number of appeal requests received and hearings conducted (from 15 in 2014 to 26 in 2015). This 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, and has made budgeting and planning challenging. If an increase in the number of appeal requests occurs, the PFHCB Appeal Board may have to consider convening twice in 2016.

Notwithstanding this challenge, the Appeal Board remains committed to: providing every certified fish harvester the opportunity of an independent appeal process, meeting the objectives stated in the 2014-2016 Activity Plan, and meeting the planning and reporting obligations of the *Transparency and Accountability Act*.

5.0 Additional Information

To inquire or comment on the contents of this report, or for additional information about the PFHCB Appeal Board, please contact:

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