



2009

Annual Performance Report

for

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

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1.0 Message from the Chairperson

As Chairperson of the Professional Fish Harvesters Certification Board (PFHCB) Appeal Board, I am pleased to present our Annual Performance Report for 2009, prepared in consultation with the Appeal Board members. We are accountable for the results reported, and for ensuring that the information in this report is accurate and thorough.

We take pride in achieving the objectives of the PFHCB Appeal Board and in ensuring that our activities are presented in a thorough and accurate manner through our accountability framework.

The PFHCB Appeal Board is an independent public body, with all members appointed by the Minister of Fisheries and Aquaculture. Therefore, we are submitting this report in fulfillment of our reporting obligations as a category three public entity under the provincial *Transparency and Accountability Act*.

Though the Appeal Board is a relatively small public body, convening only twice per annum, it makes an essential contribution to the PFHCB and the commercial fish harvesters it certifies. The structure, purpose, and operations of the Appeal Board are established in sections 14-19 of the *Professional Fish Harvesters Act*, and during the reporting period all activities of the Appeal Board were conducted accordingly.

On behalf of the PFHCB Appeal Board, I take this opportunity to thank the staff of the PFHCB for their assistance and support throughout 2009.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert Wilton', with a long horizontal flourish extending to the right.

Robert Wilton
Chairperson, PFHCB Appeal Board

2.0 PFHCB Appeal Board 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, in Sections 14-19, allows for the establishment of an Appeal Board, and an independent appeals process.

Any professional fish harvester whose certification is refused by the Board, 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 and Objectives

The mandate and objectives of the PFHCB Appeal Board are outlined in sections 14-19 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.

Appeal panels

19. (1) For the period of 24 months from the date this Act comes into force, this section applies to an appeal from a decision of the board with respect to a refusal to certify a person or with respect to a certification that is given by the board, notwithstanding sections 14 to 18.
- (2) The minister may appoint 2 or more appeal panels consisting of 3 members, 2 of whom shall be professional fish harvesters who are not members of the board chosen from a list provided by fish harvester's organizations.
- (3) The third member of the panel shall not be a professional fish harvester and shall serve as the chairperson.
- (4) An appeal panel shall only have jurisdiction to hear appeals from persons resident in that part of the province for which the minister makes the panel responsible.
- (5) Sections 14, 16 and 17 apply to an appeal to the panel as if the appeal were being made to the appeal board and to a panel as if the panel were the appeal board.
- (6) An appeal lies to the appeal board from a decision of an appeal panel and sections 14, 16, 17 and 18 apply to that appeal as if the appeal had been one from a decision of the board.
- (7) This section shall have no effect 24 months from the date this Act comes into force.

2.2 Appeal Board Members and Support Staff

The PFHCB Appeal Board consists of three members appointed by the Minister of Fisheries and Aquaculture. For the duration of this reporting period the Appeal Board members were:

Robert Wilton – Chairperson
Roy Stone – Fish Harvester Representative
Doug Howlett – Fish Harvester Representative

Operational and administrative support for the Appeal Board is provided by the staff of the PFHCB.

2.3 Lines of Business

The PFHCB Appeal Board has a single line of business: the provision of an independent appeals 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 14-19 of the Act.

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

Appeal results, approved and signed by Appeal Board members, are presented to the PFHCB Executive Director in a timely manner, and appellants are notified 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 the 2008-2010 Activity Plan.

2.5 Vision

Members of the PFHCB Appeal Board adopt the vision of the PFHCB.

The PFHCB vision is a viable Newfoundland and Labrador commercial fishery, sustained by independent professional fish harvesters who demonstrate the appropriate level of 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 the vision of the PFHCB 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 PFHCB Appeal Board itself has no fixed location. However, any correspondence, including appeal requests from certified fish harvesters, should be directed to the Professional Fish Harvesters Certification Board.

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

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.

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 2009 were \$12,158.88.

3.0 Highlights and Accomplishments

For the 2009 reporting period, the PFHCB Appeal Board conducted appeals throughout the island portion of the province, and succeeded in providing an appeal hearing to all certified fish harvesters who requested an appeal through the PFHCB. In total, 18 appeal hearings were conducted with no reported grievances.

4.0 Activities

The PFHCB Appeal Board convened twice in 2009, for three days from April 6th – 8th and for two days from December 2nd – 3rd. A summary of appeal hearings conducted, by date and location, is as follows:

Spring 2009 Appeals (12 hearings in total)

April 6	Cow Head	6 appeal hearings
April 7	Gander	2 appeal hearings
April 7	Clarenville	1 appeal hearing
April 8	St. Johns	3 appeal hearings

Fall 2009 Appeals (6 hearings in total)

December 2	Gander	3 appeal hearings
December 3	Clarenville	1 appeal hearing
December 3	St. John's	2 appeal hearings

Of the 18 appellants who had appeal hearings in 2009 (prior to the appeal), one was registered as an Apprentice Licence Holder, six were Apprentices, and 11 were Level I.

4.1 Outcome of Objectives

In the PFHCB Appeal Board's 2008 - 2010 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 2009, accompanied by a performance measure and indicators was included, as follows:

Objective #2: By December 31, 2009, 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 six months of their appeal request.

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

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

The PFHCB Appeal Board, with the assistance of PFHCB support staff, succeeded in meeting this stated objective for 2009. The 18 appellants were each offered a face-to-face appeal hearing within six months of the date of their appeal request. Additionally, the Appeal Board was successful in meeting its objective as it relates to regional proximity to appellants, as the maximum drive time, from home to the appeal venue, for any individual, was less than 2.5 hours.

4.2 Objectives for 2010

As outlined in the PFHCB Appeal Board's 2008-2010 Activity Plan, a single strategic issue is presented for 2010. This strategic issue 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

Since 1997, the PFHCB Appeal Board has conducted appeals twice per year, and in all areas of the province where appellants are located. Until recently, the number of appellants has remained high enough to conduct appeals throughout the province, thus enabling appellants, and/or their representative, to attend the hearing in person.

However, the number of appeal requests dropped again in 2009, making it increasingly difficult and less cost-efficient for the Appeal Board to provide a face-to-face appeal hearing for every appellant.

Objective #3: By December 31, 2010, 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 six months of their appeal request.

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

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

5.0 Opportunities and Challenges Ahead

The PFHCB Appeal Board provides an essential service to the approximately 11,500 certified fish harvesters registered with the Professional Fish Harvesters Certification Board. The apparent trend of a decreasing level of appeal requests in recent years will continue to pose challenges for the Appeal Board and PFHCB support staff to meet its objective, stated above, in an efficient and cost-effective manner.

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 2008-2010 Activity Plan, and meeting the planning and reporting obligations of the *Transparency and Accountability Act*.

6.0 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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