



**2016**

**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 2016, the third and final reporting year of our 2014-2016 planning cycle. This document has been prepared in consultation with the other Appeal Board members, and I 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 Land Resources. 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 (the 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,

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, 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 appeal 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 appeal 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 appeal 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 term of up to 3 years and are eligible for reappointment.
- (5) Where the term of a member of the appeal board expires, he or she continues to be a member until reappointed or replaced.

### **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 appeal 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 Land Resources. The Appeal Board members as of December 31, 2016 were:

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

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

## **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. 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](mailto:pfh@pfhcb.com)  
[www.pfhcb.com](http://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.

## **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 2016 were \$31,297.

## **3.0 Activities**

The PFHCB Appeal Board convened twice in 2016, conducting a total of 58 appeals. Twenty-three appeals were held from June 13 to 17, and another 35 appeals were held from November 21 to 29. In order to accommodate all appellants, and minimize their driving time to and from their appeal hearing, the Appeal Board conducted appeals in seven different locations throughout the province in 2016 – St. John's, Clarenville, Carbonear, Grand Falls - Windsor, Deer Lake, Stephenville, and Hawkes Bay. Ten appellants requested to have their appeals heard by teleconference. The following is a summary of appeal hearings conducted in 2016. Some harvesters who were offered an appeal hearing in June opted to postpone their appeal until fall, when their fishing activity had stopped or slowed down.

**June 2016 Appeals (23 in total)**

<u>Date of Appeal Request</u>	<u>Date of Appeal</u>	<u>Home Community</u>	<u>Appeal Location</u>
September 15, 2015	June 13, 2016	Port aux Choix	Hawkes Bay
August 8, 2015	June 13, 2016	Castor River	Hawkes Bay
May 3, 2016	June 13, 2016	Eddies Cove	Hawkes Bay
April 9, 2016	June 13, 2016	Rocky Harbour	Hawkes Bay
July 8, 2015	June 14, 2016	Stephenville	Stephenville
September 5, 2015	June 14, 2016	Highlands	Stephenville
January 14, 2016	June 14, 2016	Heatherton	Stephenville
April 8, 2016	June 14, 2016	Burnt Islands	Stephenville
May 12, 2016	June 15, 2016	St. Jacques	Grand Falls
August 1, 2015	June 15, 2016	Seldom	Grand Falls
February 24, 2016	June 15, 2016	Castor River	Grand Falls - Windsor (Teleconference)
August 26, 2015	June 15, 2016	West St. Modeste	Grand Falls - Windsor (Teleconference)
January 20, 2016	June 15, 2016	Salmon Rock	Grand Falls - Windsor (Teleconference)
November 25, 2016	June 16, 2016	Clareville	Clareville
April 18, 2016	June 16, 2016	Elliston	Clareville
August 13, 2015	June 16, 2016	Marystown	Clareville
October 29, 2015	June 16, 2016	Princeton	Clareville
January 13, 2016	June 16, 2016	Swift Current	Clareville (Teleconference)
July 3, 2015	June 17, 2016	Torbay	St. John's
January 15, 2016	June 17, 2016	Harbour Mille	St. John's (Upon Request)
November 12, 2015	June 17, 2016	Winterton	St. John's
June 4, 2016	June 17, 2016	Branch	St. John's
April 24, 2016	June 17, 2016	Dunville	St. John's

**November 2016 Appeals (35 in total)**

<u>Date of Appeal Request</u>	<u>Date of Appeal</u>	<u>Home Community</u>	<u>Appeal Location</u>
February 26, 2016	November 21, 2016	Lourdes	Stephenville
September 23, 2016	November 21, 2016	Lourdes	Stephenville
March 29, 2016	November 21, 2016	Sheaves Cove	Stephenville
May 1, 2016	November 21, 2016	Heatherton	Stephenville
May 26, 2016	November 22, 2016	Corner Brook	Deer Lake (Teleconference)
March 29, 2016	November 22, 2016	Castor River	Deer Lake (Teleconference)
May 5, 2016	November 23, 2016	La Scie	Grand Falls - Windsor
February 5, 2016	November 23, 2016	Harbour Breton	Grand Falls - Windsor
April 30, 2016	November 23, 2016	Harbour Breton	Grand Falls - Windsor
April 11, 2016	November 23, 2016	Fogo	Grand Falls - Windsor
December 4, 2015	November 24, 2016	Grand Bank	Clareville
July 26, 2016	November 24, 2016	Bonavista	Clareville
April 21, 2016	November 24, 2016	Hillview	Clareville
June 20, 2016	November 24, 2016	English Hr. East	Clareville
April 13, 2016	November 24, 2016	Little Bay East	Clareville
April 17, 2016	November 24, 2016	Lawn	Clareville
February 24, 2016	November 24, 2016	Castor River	Clareville (Teleconference)
May 25, 2016	November 24, 2016	Middle Arm	Clareville (Teleconference)
January 25, 2016	November 25, 2016	Clareville	Clareville
January 14, 2016	November 25, 2016	Port Rexton	Clareville
April 8, 2016	November 25, 2016	Lark Harbour	Clareville (Teleconference)
April 16, 2016	November 25, 2016	Mount Moriah	Clareville (Teleconference)
April 29, 2016	November 28, 2016	Hants Harbour	Carbonear
January 28, 2016	November 28, 2016	Jerseyside	Carbonear
March 9, 2016	November 28, 2016	Port de Grave	Carbonear
March 29, 2016	November 28, 2016	Normans Cove	Carbonear
October 15, 2016	November 28, 2016	Conception Hr.	Carbonear
March 4, 2016	November 28, 2016	Clarkes Beach	Carbonear
September 20, 2016	November 29, 2016	Paradise	St. John's



May 2, 2016	November 29, 2016	Brigus South	St. John's
August 24, 2015	November 29, 2016	Trepassey	St. John's (Offered in June)
August 29, 2016	November 29, 2016	St. Josephs	St. John's
April 28, 2016	November 29, 2016	Maddox Cove	St. John's
September 20, 2016	November 29, 2016	Fermeuse	St. John's
December 27, 2015	November 29, 2016	St. John's	St. John's

Fifty-eight appellants had appeal hearings in 2016. At the time of the appeals, 29 were registered as Apprentice fish harvesters, 13 were registered as Level I fish harvesters, and 16 were not approved for certification. The outcomes of the 58 appeals are as follows:

22 appeals – No change in status

Eight appeals – Apprentice upgraded to Level I

Three appeals – Apprentice upgraded to Level II

Eight appeals – Level I upgraded to Level II

One appeal – Level I status reinstated

16 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](http://www.pfhcb.com).

### **3.1 Outcome of 2016 Objective**

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 2016, accompanied by a performance measure and indicators was included, as follows:

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

**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 2016. The 58 appellants were each offered a face-to-face appeal hearing within twelve months of the date of their appeal request. Of the 58 appellants, 10 requested to have their

appeal heard via teleconference, and one appellant requested to have their appeal heard at a location outside their own region. In these 11 cases, proximity of the appellant's permanent residence was not a factor. For the 47 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 to the appeal venue, for any individual, was no more than three hours.

As previously stated, 2016 is the final year of the 2014-2016 reporting period. The Appeal Board was successful in meeting its stated objective for each of the three years in this planning period, 2014, 2015 and 2016. In total 99 appeals were conducted (15 in 2014, 26 in 2015, and 58 in 2016). All 99 appeals were heard within 12 months of the appeal request date, and all appellants were offered a face-to-face appeal within three 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 several years with a downward trend in annual appeal numbers, in 2016 there was a significant increase in the total number of appeal requests received and hearings conducted (from 15 in 2014, to 26 in 2015, to 58 in 2016). As a result, it was necessary for the Appeal Board to meet twice in 2016. 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, and has made budgeting and planning challenging. If the number of appeal requests remain high, the PFHCB Appeal Board may have to consider convening twice again in 2017.

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 new 2017-2019 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, 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](mailto:pfh@pfhcb.com) (email)