

National Energy  
Board



Office national  
de l'énergie

**Annual Report**  
**Pursuant to the**  
*Access to Information Act*

**1 April 2015 - 31 March 2016**

**Canada**



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## TABLE OF CONTENTS

1.	Introduction.....	1
	Access to Information Act .....	1
	About the National Energy Board.....	1
2.	Description of Institution Structure.....	2
	The Access to Information and Privacy (ATIP) Office .....	2
	Info Source.....	3
	Reading Room .....	3
	Workload.....	3
	Highlights and Accomplishments for 2015-2016 .....	4
3.	Designation Order .....	5
4.	Statistical Report and Interpretation .....	6
	a) Statistical Report:.....	6
	b) Interpretation / Explanation .....	15
	PART 1 - Requests under the <i>Access to Information Act</i> .....	15
	PART 2 - Requests Closed During the Reporting Period.....	15
	PART 3 - Extensions .....	18
	PART 4 - Fees.....	19
	PART 5 - Consultations Received from Other Institutions and Organizations .....	19
	PART 6 - Completion Time of Consultations on Cabinet Confidences.....	20
	PART 7 - Complaints and Investigations .....	20
	PART 8 - Court Action.....	20
	PART 9 - Resources Related to the <i>Access to Information Act</i> .....	20
5.	Description of Education and Training Activities .....	21
6.	New or Revised Policies and Guidelines .....	22
7.	Handling Complaints, Audits and Investigations .....	22
8.	Enhancing Support and Sustaining Compliance.....	22



## 1. Introduction

### Access to Information Act

The *Access to Information Act* (Act) gives the Canadian public a right to access information contained in federal government records, subject to certain specific and limited exceptions.

In accordance with section 72 of the Act, the head of every federal institution is required to submit an Annual Report to Parliament on the administration of the Act following the close of each fiscal year. The Annual Reports are then tabled in Parliament pursuant to section 72 of the Act. This report describes how the National Energy Board (NEB or Board) fulfilled its access to information responsibilities during the fiscal year 2015-2016.

### About the National Energy Board

The Board is an independent federal regulator established in 1959 to promote safety and security, environmental protection and economic efficiency in the Canadian public interest within the mandate set by Parliament for the regulation of pipelines, energy development and trade.

The Board reports to Parliament through the Minister of Natural Resources. The Board regulates the following specific aspects of the energy industry:

- the construction and operation of interprovincial and international pipelines;
- pipeline traffic, tolls and tariffs;
- the construction and operation of international and designated interprovincial power lines;
- the export and import of natural gas;
- the export of oil and electricity; and
- frontier oil and gas activities.

Other responsibilities include:

- providing energy advice to the Minister of Natural Resources in areas where the Board has expertise derived from its regulatory functions;
- carrying out studies and preparing reports when requested by the Minister;
- conducting studies into specific energy matters;
- holding public inquiries when appropriate; and
- monitoring current and future supplies of Canada's major energy commodities.

In addition to its responsibilities under the *National Energy Board Act* (NEB Act), the Board also has responsibilities under the *Canada Oil and Gas Operations Act*, the *Canadian Environmental Assessment Act*, the *Northern Pipeline Act*, and certain provisions of the *Canada Petroleum Resources Act*. As a result of the *Canada Transportation Act*, which came into effect on 1 July 1996, the Board's jurisdiction has been broadened to also include pipelines that transport commodities other than oil or natural gas.

For more information about the National Energy Board, please visit our website at:

[www.neb-one.gc.ca](http://www.neb-one.gc.ca).

## 2. Description of Institution Structure

### The Access to Information and Privacy (ATIP) Office

Activities relating to the *Access to Information Act* during the reporting period were the responsibility of the Secretary of the Board, who had been designated by the Chair and CEO of the Board as the Coordinator. Organizationally, the Access to Information and Privacy (ATIP) team resides within the Office of the Secretary and Regulatory Services Team.

The Chair and CEO has overall responsibility for ensuring that the Board's policies, procedures and practices are compliant with the application and administration of the *Access to Information Act*. The National Energy Board has procedures in place to process all formal and informal access to information requests. These requests are processed by the Access to Information and Privacy Coordinator who has the authority to access all records held by the Board. The ATIP Office works closely with Information and Document Services and Senior Management across the organization.

The ATIP Office is comprised of two permanent full-time Officers and one senior Officer on assignment from another department of the Board. The Executive Support Advisor oversees this team. In addition, the Board hired a casual employee for the last quarter of the fiscal year to assist part-time in the processing of ATIP requests. Taking into account the casual employee, the delegated authority and the Executive Support Advisor who work part-time on Access to Information, Privacy, and Parliamentary Enquiries, there are 4 full-time equivalents (FTEs) in the Board's ATIP Office.

In addition to providing legal advice and guidance to the ATIP Office on all issues related to the application of the Act, the Board's Legal Services, in general, assist the offices of primary interest within the Board and the ATIP Office in the delivery of their program and activities having an *Access to Information Act* component.

The ATIP Office is responsible for the coordination and implementation of policies, guidelines and procedures to ensure the organization's compliance with the *Access to Information Act*. The office also provides the following services to the organization:

- Promoting awareness of the *Access to Information Act* within the organization;
- Processing and managing access to information requests and complaints;
- Managing the electronic tracking system;
- Processing consultations received from other institutions;
- Providing advice and guidance to employees and senior officials on access related matters;
- Preparing an Annual Report to Parliament;
- Coordinating updates to the *Info Source* publications;
- Developing internal procedures; and
- Participating in forums for the ATIP community, such as the Treasury Board Secretariat ATIP Community meetings and working groups.



## Info Source

*Info Source* is a series of publications containing information about and/or collected by the Government of Canada. The primary purpose of *Info Source* is to assist individuals in exercising their rights under the *Access to Information Act* and the *Privacy Act*. *Info Source* also supports the federal government's commitment to facilitate access to information regarding its activities.

During this reporting period, the ATIP Office added Privacy Impact Summaries to the NEB external website and provided a link to the Info Source. There was also some work undertaken to better align the Personal Information Bank (PIB) with Treasury Board requirements.

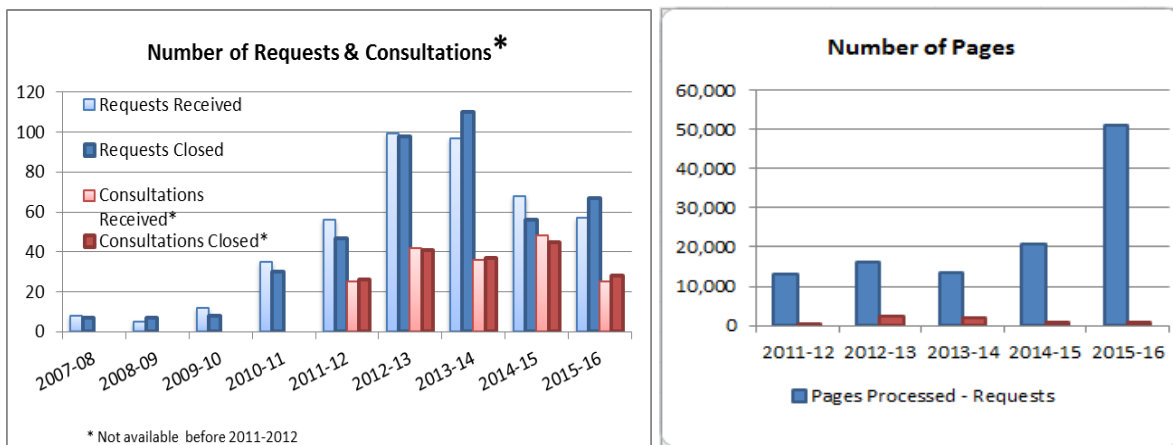
## Reading Room

Section 71 of the *Access to Information Act* requires government institutions to provide facilities where members of the public may obtain information such as *Info Source*. The following National Energy Board location in Calgary has been designated as a public reading room:

National Energy Board Library  
2<sup>nd</sup> Floor, 517 - 10<sup>th</sup> Avenue SW  
Calgary, AB T2R 0A8

## Workload

Although the number of formal requests declined from 68 requests in 2014-15 to 57 in 2015-16, the number of pages processed more than doubled. Specifically, while 20,750 pages were processed in 2014-15, 50,974 pages were processed during the 2015-16 fiscal year. The number of access to information requests received and pages processed are demonstrated by the following charts:



The NEB was able to respond to 88% of all access to information requests in 2015-16. The NEB finished clearing its backlog of requests and strives to keep up with the high level of requests.

## Highlights and Accomplishments for 2015-2016

The NEB has continued to improve the way in which it responds to *Access to Information Act* requests, with a maturing focus on improving timeliness, efficiency and accuracy. Some of the highlights are as follows:

- The NEB concluded the year with 88 percent of its requests having been completed;
- The NEB has remained committed to on-time performance in the face of increasing complexity and the continued high volume of requests, pages processed, and consultations received from other institutions;
- Training sessions, focusing exclusively on the *Access to Information Act* and the NEB's procedures for processing requests, are held annually for new staff, NEB leaders and Board Members, or more frequently as required;
- Privacy Impact Summaries were added to the NEB external website with a link to *Info Source*;
- Again this year, the Senior ATIP Officer delivered on-demand 1:1 training to various parts of the NEB, raising awareness about staff's roles and accountabilities and providing an overview of the ATIP process; and
- In keeping with NEB's transparency initiative, continuing to proactively post additional information on its compliance and enforcement activities with the goal of providing all relevant information in a manner that is clear and accessible.

### 3. Designation Order



#### **Access to Information Act Designation Replacement Order**

The Chair and CEO of the National Energy Board (the Board), pursuant to Section 73 of the *Access to Information Act* (the Act) hereby replaces the *Access to Information Act Designation Replacement Order* made on the 1<sup>st</sup> day of April 2011, at the City of Calgary, in the Province of Alberta by the following text.

The Chair and CEO of the Board, pursuant to Section 73 of the *Access to Information Act*<sup>1</sup> hereby designates the person holding the position of Secretary of the Board to exercise the powers and perform the duties and functions of the Chair and CEO as head of a government institution under the Act.

Dated at the City of Calgary, in the Province of Alberta, this 1<sup>st</sup> day of February 2013.

Gaetan Caron  
Chair and CEO

---

<sup>1</sup> S.C. 1980-81-82 c. 111

## 4. Statistical Report and Interpretation

### a) Statistical Report:



Government of Canada  
Gouvernement du Canada

### Statistical Report on the *Access to Information Act*

Name of institution: National Energy Board of Canada

Reporting period: 2015-04-01 to 2016-03-31

#### Part 1: Requests Under the *Access to Information Act*

##### 1.1 Number of requests

	Number of Requests
Received during reporting period	57
Outstanding from previous reporting period	19
<b>Total</b>	76
Closed during reporting period	67
Carried over to next reporting period	9

##### 1.2 Sources of requests

Source	Number of Requests
Media	33
Academia	1
Business (private sector)	3
Organization	4
Public	16
Decline to Identify	0
<b>Total</b>	57

##### 1.3 Informal requests

Completion Time							Total
1 to 15 Days	16 to 30 Days	31 to 60 Days	61 to 120 Days	121 to 180 Days	181 to 365 Days	More Than 365 Days	
22	3	2	0	1	0	0	28

**Note:** All requests previously recorded as “treated informally” will now be accounted for in this section only.

## Part 2: Requests Closed During the Reporting Period

### 2.1 Disposition and completion time

Disposition of Requests	Completion Time							Total
	1 to 15 Days	16 to 30 Days	31 to 60 Days	61 to 120 Days	121 to 180 Days	181 to 365 Days	More Than 365 Days	
All disclosed	0	2	1	1	0	0	0	4
Disclosed in part	0	4	12	17	6	4	0	43
All exempted	0	3	1	0	0	0	0	4
All excluded	0	3	0	0	0	0	0	3
No records exist	3	5	1	0	0	0	0	9
Request transferred	0	0	0	0	0	0	0	0
Request abandoned	2	1	1	0	0	0	0	4
Neither confirmed nor denied	0	0	0	0	0	0	0	0
<b>Total</b>	<b>5</b>	<b>18</b>	<b>16</b>	<b>18</b>	<b>6</b>	<b>4</b>	<b>0</b>	<b>67</b>

### 2.2 Exemptions

Section	Number of Requests	Section	Number of Requests	Section	Number of Requests	Section	Number of Requests
13(1)(a)	0	16(2)	0	18(a)	0	20.1	0
13(1)(b)	0	16(2)(a)	0	18(b)	0	20.2	0
13(1)(c)	0	16(2)(b)	0	18(c)	0	20.4	0
13(1)(d)	0	16(2)(c)	7	18(d)	0	21(1)(a)	29
13(1)(e)	0	16(3)	0	18.1(1)(a)	0	21(1)(b)	26
14	0	16.1(1)(a)	0	18.1(1)(b)	0	21(1)(c)	0
14(a)	0	16.1(1)(b)	0	18.1(1)(c)	0	21(1)(d)	1
14(b)	0	16.1(1)(c)	0	18.1(1)(d)	0	22	0
15(1)	0	16.1(1)(d)	0	19(1)	40	22.1(1)	0
15(1) - I.A.*	0	16.2(1)	0	20(1)(a)	1	23	14
15(1) - Def.*	0	16.3	0	20(1)(b)	4	24(1)	0
15(1) - S.A.*	0	16.4(1)(a)	0	20(1)(b.1)	0	26	1
16(1)(a)(i)	0	16.4(1)(b)	0	20(1)(c)	0		
16(1)(a)(ii)	0	16.5	0	20(1)(d)	0		
16(1)(a)(iii)	0	17	0				
16(1)(b)	0						
16(1)(c)	1						
16(1)(d)	0						

\* I.A.: International Affairs, Def.: Defense of Canada, S.A.: Subversive Activities

## 2.3 Exclusions

Section	Number of Requests	Section	Number of Requests	Section	Number of Requests
68(a)	1	69(1)	0	69(1)(g) re (a)	0
68(b)	0	69(1)(a)	0	69(1)(g) re (b)	0
68(c)	0	69(1)(b)	0	69(1)(g) re (c)	0
68.1	0	69(1)(c)	0	69(1)(g) re (d)	0
68.2(a)	0	69(1)(d)	0	69(1)(g) re (e)	0
68.2(b)	0	69(1)(e)	0	69(1)(g) re (f)	0
		69(1)(f)	0	69.1(1)	0

## 2.4 Format of information released

Disposition	Paper	Electronic	Other Formats
All disclosed	3	1	0
Disclosed in part	32	11	0
<b>Total</b>	35	12	0

## 2.5 Complexity

### 2.5.1 Relevant pages processed and disclosed

Disposition of Requests	Number of Pages Processed	Number of Pages Disclosed	Number of Requests
All disclosed	279	279	4
Disclosed in part	49,672	41,265	43
All exempted	1,009	0	4
All excluded	0	0	3
Request abandoned	14	14	4
Neither confirmed nor denied	0	0	0

## 2.5.2 Relevant pages processed and disclosed by size of requests

Disposition	Less Than 100 Pages Processed		101-500 Pages Processed		501-1000 Pages Processed		1001-5000 Pages Processed		More Than 5000 Pages Processed	
	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed
All disclosed	3	67	1	212	0	0	0	0	0	0
Disclosed in part	24	797	10	1,194	4	1,272	4	2,270	1	35,732
All exempted	3	0	0	0	0	0	1	0	0	0
All excluded	3	0	0	0	0	0	0	0	0	0
Request abandoned	4	14	0	0	0	0	0	0	0	0
Neither confirmed nor denied	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>37</b>	<b>878</b>	<b>11</b>	<b>1,406</b>	<b>4</b>	<b>1,272</b>	<b>5</b>	<b>2,270</b>	<b>1</b>	<b>35,732</b>

## 2.5.3 Other complexities

Disposition	Consultation Required	Assessment of Fees	Legal Advice Sought	Other	Total
All disclosed	0	0	2	1	3
Disclosed in part	18	0	11	2	31
All exempted	0	0	0	1	1
All excluded	0	0	0	0	0
Request abandoned	0	0	0	0	0
Neither confirmed nor denied	1	0	0	0	1
<b>Total</b>	<b>19</b>	<b>0</b>	<b>13</b>	<b>4</b>	<b>36</b>

## 2.6 Deemed refusals

### 2.6.1 Reasons for not meeting statutory deadline

Number of Requests Closed Past the Statutory Deadline	Principal Reason			
	Workload	External Consultation	Internal Consultation	Other
17	12	0	1	4

### 2.6.2 Number of days past deadline

Number of Days Past Deadline	Number of Requests Past Deadline Where No Extension Was Taken	Number of Requests Past Deadline Where An Extension Was Taken	Total
1 to 15 days	3	1	4
16 to 30 days	0	2	2
31 to 60 days	2	2	4
61 to 120 days	1	5	6
121 to 180 days	1	0	1
181 to 365 days	0	0	0
More than 365 days	0	0	0
<b>Total</b>	7	10	17

### 2.7 Requests for translation

Translation Requests	Accepted	Refused	Total
English to French	0	0	0
French to English	0	0	0
<b>Total</b>	0	0	0

## Part 3: Extensions

### 3.1 Reasons for extensions and disposition of requests

Disposition of Requests Where an Extension Was Taken	9(1)(a) Interference With Operations	9(1)(b) Consultation		9(1)(c) Third-Party Notice
		Section 69	Other	
All disclosed	1	0	1	0
Disclosed in part	16	0	9	7
All exempted	1	0	0	0
All excluded	0	0	0	0
No records exist	2	0	0	0
Request abandoned	0	0	1	0
<b>Total</b>	20	0	11	7



### 3.2 Length of extensions

Length of Extensions	9(1)(a) Interference With Operations	9(1)(b) Consultation		9(1)(c) Third-Party Notice
		Section 69	Other	
30 days or less	5	0	4	0
31 to 60 days	11	0	4	7
61 to 120 days	4	0	3	0
121 to 180 days	0	0	0	0
181 to 365 days	0	0	0	0
365 days or more	0	0	0	0
<b>Total</b>	20	0	11	7

### Part 4: Fees

Fee Type	Fee Collected		Fee Waived or Refunded	
	Number of Requests	Amount	Number of Requests	Amount
Application	62	\$310	5	\$25
Search	0	\$0	0	\$0
Production	0	\$0	0	\$0
Programming	0	\$0	0	\$0
Preparation	0	\$0	0	\$0
Alternative format	0	\$0	0	\$0
Reproduction	0	\$0	0	\$0
<b>Total</b>	62	\$310	5	\$25

### Part 5: Consultations Received From Other Institutions and Organizations

#### 5.1 Consultations received from other Government of Canada institutions and organizations

Consultations	Other Government of Canada Institutions	Number of Pages to Review	Other Organizations	Number of Pages to Review
Received during reporting period	25	689	0	0
Outstanding from the previous reporting period	3	77	0	0
<b>Total</b>	28	766	0	0
Closed during the reporting period	28	766	0	0
Pending at the end of the reporting period	0	0	0	0



## Part 6: Completion Time of Consultations on Cabinet Confidences

### 6.1 Requests with Legal Services

Number of Days	Fewer Than 100 Pages Processed		101-500 Pages Processed		501-1000 Pages Processed		1001-5000 Pages Processed		More Than 5000 Pages Processed	
	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed
1 to 15	1	0	0	0	0	0	0	0	0	0
16 to 30	0	0	0	0	0	0	0	0	0	0
31 to 60	0	0	0	0	0	0	0	0	0	0
61 to 120	0	0	0	0	0	0	0	0	0	0
121 to 180	0	0	0	0	0	0	0	0	0	0
181 to 365	0	0	0	0	0	0	0	0	0	0
More than 365	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	1	0	0	0	0	0	0	0	0	0

### 6.2 Requests with Privy Council Office

Number of Days	Fewer Than 100 Pages Processed		101-500 Pages Processed		501-1000 Pages Processed		1001-5000 Pages Processed		More Than 5000 Pages Processed	
	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed
1 to 15	0	0	0	0	0	0	0	0	0	0
16 to 30	0	0	0	0	0	0	0	0	0	0
31 to 60	0	0	0	0	0	0	0	0	0	0
61 to 120	0	0	0	0	0	0	0	0	0	0
121 to 180	0	0	0	0	0	0	0	0	0	0
181 to 365	0	0	0	0	0	0	0	0	0	0
More than 365	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	0	0	0	0	0	0	0	0	0	0

## Part 7: Complaints and Investigations

Section 32	Section 35	Section 37	Total
14	14	2	30

## Part 8: Court Action

Section 41	Section 42	Section 44	Total
0	0	0	0

## Part 9: Resources Related to the *Access to Information Act*

### 9.1 Costs

Expenditures		Amount
Salaries		\$262,217
Overtime		\$0
Goods and Services		\$18,588
• Professional services contracts	\$7,569	
• Other	\$11,019	
<b>Total</b>		<b>\$280,805</b>

### 9.2 Human Resources

Resources	Person Years Dedicated to Access to Information Activities
Full-time employees	2.57
Part-time and casual employees	0.08
Regional staff	0.00
Consultants and agency personnel	0.00
Students	0.00
<b>Total</b>	<b>2.65</b>

## **b) Interpretation / Explanation**

### **PART 1 - Requests under the *Access to Information Act***

#### 1.1 Number of requests

During the reporting period, the Board received 57 requests under the *Access to Information Act* compared to 60 in the previous reporting period. Nineteen requests were outstanding from the previous reporting period. Of these 76 requests, 67 were completed and 9 were carried forward to the next year. Of the 9 files that were carried forward, 5 were received in March, 2016.

#### 1.2 Sources of requests

Of the 57 requests received, the largest number of new requests came from the media sector with a total of 33. Also, the NEB received 16 requests from the public, 4 requests from Organizations, 3 requests from the business sector and 1 from Academia.

#### 1.3 Informal requests

Informal requests are those where the information requested can be processed and provided without citing the *Access to Information Act* but keeping within the spirit of the legislation. A request for a copy of a release package from a previously completed request listed on the NEB's Completed Access to Information Requests web page is a common example of a request handled informally. The \$5 application fee is not required. The requester needs also agree to informal treatment as the recourse of filing a complaint is not available.

There were again 28 cases of informal requests processed in 2015-2016. Of these informal requests, 22 were completed in 1-15 days, 3 were completed in 16-30 days, 2 were completed within 31-60, and 1 was completed within 121-180 days.

### **PART 2 - Requests Closed During the Reporting Period**

#### 2.1 Disposition and completion time

Of the 67 requests closed during the reporting period, the Board disclosed all documents in 4 cases; in 43 cases, documents were disclosed in part; in 4 cases all were exempted; in 3 cases all were included; and in 9 cases, no records existed. Two requests were abandoned by the applicant.

Of the four requests in which all documents were disclosed, 2 were completed within 16-30 days, 1 was completed within 31-60 days, and 1 within 121-180 days.

Of the 43 requests disclosed in part, 0 were completed in 1-15 days, 4 were completed in 16-30 days, 12 were completed in 31-60 days, 17 were completed in 61-120 days, 6 were completed in 121-180 days, and 4 were completed in 181-365 days. None required more than 365 days to complete.

There were 4 requests where all of the information was exempted. Of these, 3 requests were completed in 16-30 days and 1 request was completed within 31-60 days.

There were also 3 requests where all of the information was excluded. All 3 requests were completed in 16-30 days.

For the requests where the Board had no records, 3 of the 9 requests were completed in less than 15 days, 5 were completed in 16-30 days, and 1 was completed in 31-60 days.

In the 4 cases where requests were abandoned by the applicant with 2 being abandoned in less than 15 days, 1 within 16-30 days, and 1 within in 31-60 days.

There were no requests where the request was transferred, or where the response was to neither confirm nor deny the existence of records.

## 2.2 Exemptions

The following exemptions were invoked during the processing of Access to Information requests during this period:

Information that could facilitate the commission of an offence:

- 16(1)(c) was invoked in 1 request
- 16(2)(c) was invoked in 7 requests

Personal information:

- 19(1) was invoked for 40 requests

Third party information:

- 20(1)(a) was used in 1 request
- 20(1)(b) was used in 4 requests

Advice:

- 21(1)(a) was invoked for 29 requests
- 21(1)(b) was invoked in 26 requests
- 21(1)(d) was used in 1 request

Solicitor-client privilege:

- 23 was invoked for 14 requests
- 26 was invoked in 1 request.

## 2.3 Exclusions

The *Access to Information Act* does not apply to published material, material available to the public for purchase or for public reference (section 68). Nor does it apply to confidences of the Queen's Privy Council, with some exemptions (section 69). Requests containing proposed exclusions under section 69 require consultation with the Privy Council Office. There was 1 request completed during the reporting period in which exclusions were applied pursuant to

section 68(a) of the Act, and no request with exclusions under section 69.

#### 2.4 Format of information released

Of the 4 requests that were disclosed in their entirety, the requesters received paper copies of the information in 3 cases and in 1 case, in electronic format.

Of the 32 requests that were disclosed in part, the requesters received paper copies of the information in 32 cases and 11 cases, in electronic format.

#### 2.5 Complexity

The number of pages processed means the number of pages that were analyzed to determine whether the information can be disclosed, exempted or excluded. It does not reflect the number of pages that were examined to determine relevancy. A partially disclosed page would be counted as a page disclosed.

##### 2.5.1 Relevant pages processed and disclosed

In the 4 cases where all documents were disclosed, the NEB processed and disclosed 279 pages. In the 43 cases where documents were disclosed in part, the NEB processed 49,672 pages and disclosed 41,265 pages. In 4 cases where all the information was exempted, the NEB processed 1,009 pages. No pages were processed or disclosed in 3 cases that were deemed to be all excluded. In the 4 requests that were abandoned, the NEB processed 14 pages and disclosed 14 pages.

##### 2.5.2 Relevant pages processed and disclosed by size of requests

In the 37 instances where less than 100 pages were processed, the NEB disclosed 878 pages. Where 101-500 pages were processed, the NEB disclosed 1,406 pages for those 11 requests. In response to 4 requests where 501-1,000 pages were processed, the NEB disclosed 1,272 pages. Five requests required the processing of 1,001-5,000 pages and, in those cases, 2,270 pages were disclosed. One request required the processing of more than 5,000 pages and, in this case, 35,732 pages were disclosed.

##### 2.5.3 Other complexities

In certain cases, there were factors that increased the complexity of requests. In 18 cases, consultations were required, and legal advice was sought on 11 requests completed during the reporting period. Other complexities identified throughout the reporting period included 3 requests where the NEB's IT department conducted a search of the server for potential records and 1 request where a section 44 letter was sent to clarify if a 3<sup>rd</sup> party required a judicial review.

## 2.6 Deemed refusals

Requests are considered to fall into a deemed refusal status when they have not been answered within the deadlines (either the original 30-day period or within an extended period).

### 2.6.1 Reasons for not meeting statutory deadline

Although the Board met its statutory deadlines most of the time, there were 17 requests that did not close within the statutory (original or extended) deadline. The reason for not meeting the deadline in 7 of those cases was due to workload volume or delays in completing the internal consultation.

### 2.6.2 Number of days past deadline

There were 7 cases when no extension was taken. Of these, 3 were completed within 1-15 days, 2 were completed between 31-60 days, 1 was completed within 61-120 days, and 1 was completed 121-180 days.

In the 10 cases when the NEB responded past the deadline where an extension was taken, 1 was completed 1-15 days past the deadline, 2 were completed 16-30 days past the deadline, 2 were completed 31-60 days past the deadline, and 5 were completed 61-120 days past the deadline.

## 2.7 Requests for translation

No translations were required to respond to 2015-2016 access requests.

## **PART 3 - Extensions**

### 3.1 Reasons for extensions and disposition of requests

Legal extensions were most frequently invoked to provide time to search through voluminous records and to conduct third party notifications. One extension was required where all records were disclosed.

Where records were partially disclosed, 16 extensions were taken under 9(1)(a), 9 extensions were taken under 9(1)(b) and 7 extensions were taken under 9(1)(c).

In the 2 cases where no records existed relevant to the request, the extension was taken under 9(1)(a). In the 1 case where the request was abandoned, the extension was taken under 9(1)(b).

### 3.2 Length of extensions

In 20 cases where an extension was taken under 9(1)(a), 5 requests required an extension of 30 days or less, 11 requests required an extension of 31-60 days, and 4 requests required an extension of 61-120 days.



In 11 cases where an extension was taken under 9(1)(b), 4 required an extension of 30 days or less, 4 required an extension of 31-60 days, and 3 required an extension of 61-120 days.

All 7 cases where an extension was taken under 9(1)(c) required an extension of 31-60 days.

#### **PART 4 - Fees**

Over the reporting period, the Board collected \$310 in application fees for 62 requests. The Board waived or refunded \$25 in application fees for 5 requests. Fees were waived primarily in the cases where requests were abandoned or no records were found to exist.

#### **PART 5 - Consultations Received from Other Institutions and Organizations**

The interdepartmental nature of information in many records under the control of the National Energy Board continues to necessitate external consultations. For the purposes of Part 5 of this report, other government institutions are defined as other institutions subject to the *Access to Information Act*. Other organizations include the governments of the provinces, territories and municipalities and of other countries.

##### 5.1 Consultations received from other Government of Canada institutions and organizations

During the reporting period, the Board received 25 consultations from other government institutions resulting in the requirement to review 689 pages.

Three consultations received from other government institutions remained pending at the end of the reporting period, requiring 77 pages to review.

Consultation volumes are a factor in the NEB's workload, as their processing within the ATIP Office can require a substantial amount of resources.

##### 5.2 Recommendations and completion time for consultations received from other Government of Canada institutions

In the 25 cases where the NEB recommended that the records be disclosed entirely, 24 consultation requests were completed in 1-15 days and 1 consultation required 16-30 days to complete. In the 3 cases where the Board recommended that the records be partially disclosed, all 3 consultation requests were completed in 1-15 days.

##### 5.3 Recommendations and completion time for consultations received from other organizations

The NEB did not receive consultations from other organizations.

## **PART 6 - Completion Time of Consultations on Cabinet Confidences**

### 6.1. Requests with Legal Services

Following consultation with NEB's Legal Services, it was determined that a particular file did not require further consultation with the Privy Council Office.

### 6.2 Requests with Privy Council Office

There were no requests submitted to Privy Council Office for further consultation.

## **PART 7 - Complaints and Investigations**

The Office of the Information Commissioner notified the NEB of 14 complaints in 2015-16 (Section 32 column) for which the NEB subsequently responded to (Section 35 column).

The Information Commissioner provided a report for two complaints that had been pending from 2015-16 (Section 37 column). For both of these complaints, the complainant alleged that the NEB had improperly applied exemptions so as to unjustifiably deny access to records, or portions thereof, requested under the Act; both of these complaints were subsequently discontinued after the NEB provided a justification for the exemptions it had applied to the files. There are 12 complaints received during the past fiscal year (2015-2016) that remain pending as well as eight from previous years.

## **PART 8 - Court Action**

The NEB had no complaints for which the requester, the Information Commissioner, nor a third party had applied to the Federal Court during the reporting period for a review of the Institution's decision.

## **PART 9 - Resources Related to the *Access to Information Act***

### 9.1 Costs

Costs are only to include those related to the administration of the *Access to Information Act* incurred by the ATIP Office that has authority to respond to formal access to information requests. Costs do not include those that were incurred by other areas of the institution, including Offices of Primary Interest and Legal Services. The total cost for resources related to the *Access to Information Act* over the reporting period was \$280,805.

The total amount paid for salaries of employees working in the ATIP Office on activities related to the administration of the *Access to Information Act* was \$262,217.

The Board spent \$18,588 on goods and services related to the administration of the *Access to Information Act*. Of that amount \$7,569 was spent on professional services contracts and \$11,019 was spent on other goods and services.

### 9.2 Human Resources

Over the reporting period, the NEB's four full-time employees (three Officers and the Executive Support Advisor) dedicated the equivalent of 2.57 person years to Access to Information activities and one casual employee dedicated the equivalent of 0.08 of a person year to Access to Information activities.

## **5. Description of Education and Training Activities**

### Training for National Energy Board Staff

The NEB promotes access to information imperatives in face-to-face meetings, presentations, learning products, on the Intranet and through its training program. It fosters responsible working relationships with clients and operates under clearly defined timelines.

Training on the provisions of the *Access to Information Act* and the *Privacy Act* is mandatory at the National Energy Board and is included in the menu of New Employee Orientation Training. At least annually, the ATIP Office delivers both specialized training to respond to the needs of officers and clients, and general training to raise employees' awareness of their responsibilities under these Acts and the impact they have on Board programs and initiatives.

Yvon Gauthier Info-Training provided a complete selection of training courses designed to increase knowledge and awareness of Access to Information and Privacy issues and legislation. The mandatory "ATIP Orientation for all NEB employees" is a half-day course that was provided in two sessions on March 8 and March 11, 2016 to 58 employees. The two-hour "ATIP – Focus on Privacy" course was offered on March 9<sup>th</sup> and was attended by 7 employees. The one-day course, "ATIP for Office of Primary Interest (OPI) Staff only" was attended by 21 employees on March 10, 2016. A special session entitled "ATIP Orientation for Board Members" was held on March 9<sup>th</sup> and was attended by the Chair and CEO of the NEB as well as by 8 Board Members.

### Training for ATIP Analysts

During the reporting period, ATIP staff participated in a webinar about Amanda 7, which is the new generation of Access Pro redaction software, as well as more formal events and training sessions.

On March 9, 2016, a senior ATIP officer attended the "ATIP for Board Members" session delivered by Yvon Gauthier Info-Training so that NEB-specific ATIP questions could be addressed. The consultant also met informally with ATIP staff while here, to provide guidance on any difficult case files. Yvon Gauthier is also routinely contacted to provide advice and guidance as needed throughout the year.

The Canadian Access and Privacy Association (CAPA) is a non-profit incorporated organization established in 1987 for the purpose of furthering the knowledge and expertise of its members in the legal and practical aspects of access to information and the protection of privacy. This year, the NEB supported the attendance of NEB's ATIP Coordinator and a Senior ATIP Officer to participate in the November 30, 2015 Annual Conference in Ottawa. Among other things, the

conference featured S. Legault from the Office of the Information Commissioner who provided an update on upcoming changes to the legislation and case law.

## **6. New or Revised Policies and Guidelines**

Since a full suite of policies, procedures and guidelines directly related to access to information was rolled out in recent years, the NEB did not develop any additional ones during 2015-2016. The NEB complies with the *Directive on the Administration of the Access to Information Act* and all other related Treasury Board Secretariat policies, guidelines, and procedures.

During the reporting period, the ATIP Office continued to provide support and advice in the enhancement of the NEB's proactive posting on the NEB website of information on its compliance and enforcement activities. The goal of the initiative is to provide all relevant information related to its compliance and enforcement actions in a manner that is clear and transparent. The information that is now publicly available on NEB's website regarding compliance and enforcement activities include:

- NEB Inspection Reports;
- NEB Audits of company operations;
- Inspection Officer Orders;
- Incident Investigation Reports;
- Information related to Administrative Monetary Penalties;
- Board Orders (related to safety and environmental protection issues);
- Board Letters or Directives (related to safety and environmental protection issues);
- Corrective Action Plans related to the above; and
- Other relevant documents, including any significant correspondence.

Over the past year, NEB Inspections and Incident Investigation reports have now been added to the list. These additions to the information being provided demonstrate the NEB's commitment to transparency and public access to data.

## **7. Handling Complaints, Audits and Investigations**

The NEB received 14 complaints during the reporting period. All of these complaints were processed and responded to within the timelines provided by the Office of the Information Commissioner. Of the 14 complaints, only two received a ruling from the Office of the Privacy Commissioner, while 12 are still pending resolution.

The NEB has cooperated fully with the Office of Information Commissioner in the conduct of its investigations regarding complaints made against the NEB.

## **8. Enhancing Support and Sustaining Compliance**

The NEB continues to improve the timeliness, efficiency and accuracy of responses to ATIP requests. The ATIP Office uses a database to track the process of completing requests and sends

out weekly reports listing those requests outstanding. The ATIP Office staff meets weekly with the Secretary of the Board as the ATIP Coordinator, along with legal counsel and other senior management, to monitor and direct the progression of the requests. Senior management, including the Chief Operating Officer and the Executive Vice President, Law and General Counsel, are updated on a bi-weekly basis by the Secretary with respect to the status and nature of ATIP files. The Chair and CEO is kept apprised of the volume and times required to process ATIP requests.

This year, the NEB:

- Cleared the backlog of requests from previous years that were not yet closed;
- Improved its proactive disclosures to increase information available to the public, thereby reducing the need to file formal access to information requests;
- Improved negotiations with requesters to more clearly understand the requests, clarify scope and provide requesters with the information they seek;
- Continued to implement a structured and Board-wide ATIP awareness program to ensure that staff and senior officials understand their roles and responsibilities regarding ATIP; and
- Worked collaboratively with consultants who have expertise in ATIP and business processes to assist with the development and implementation of a Privacy Management Framework.