

National Energy  
Board



Office national  
de l'énergie

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

**1 April 2011 - 31 March 2012**

**Canada**



**National Energy Board**

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Pursuant to the  
*Access to Information Act*

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## I. 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 2011-2012.

### 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).

## II. 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 Strategic Leader of Business Integration, who has 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, and reports to the Strategic Leader of Business Integration.

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.

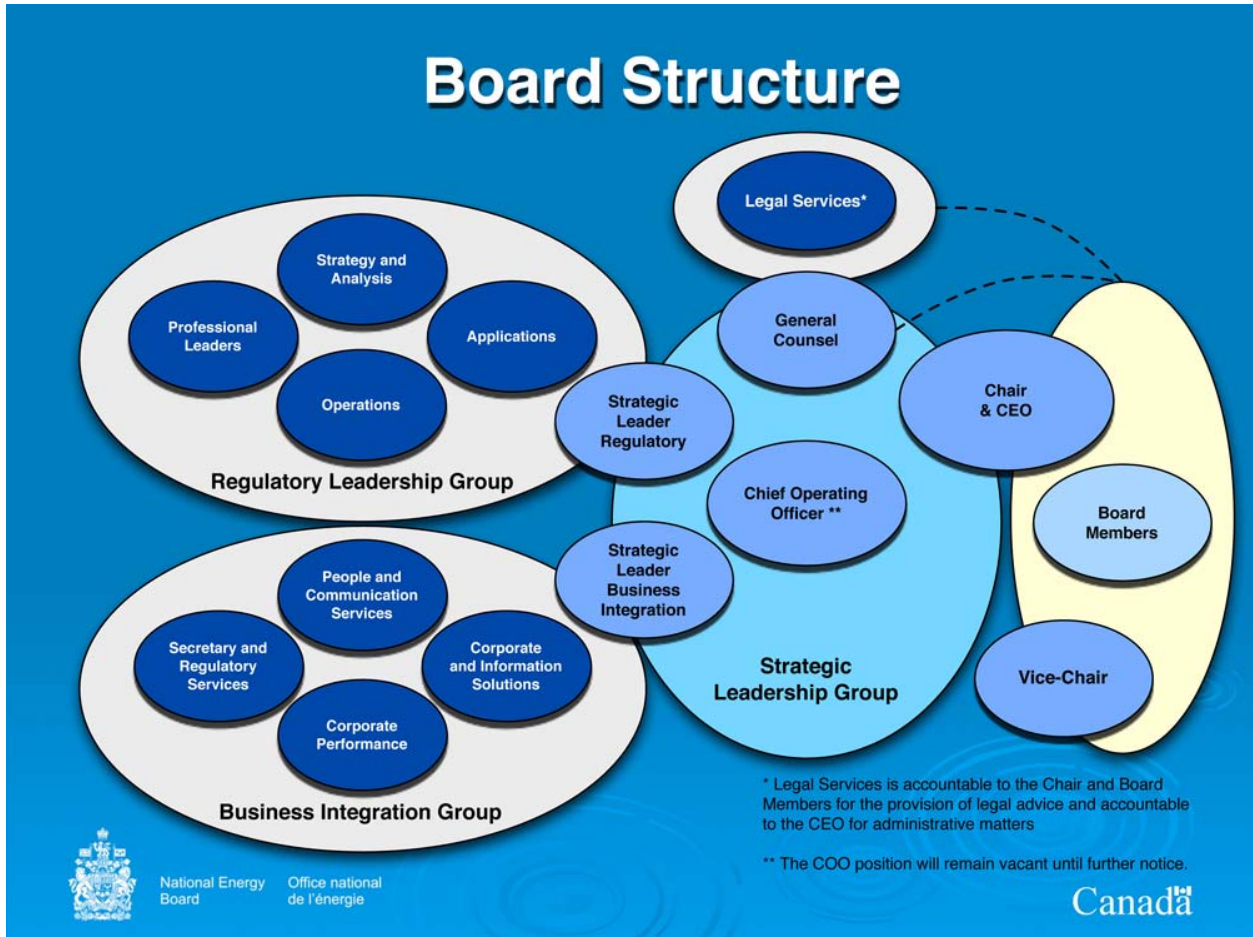
The ATIP Office, under the guidance of the Strategic Leader of Business Integration, was comprised of one permanent full-time Officer in April 2011, one permanent full-time Administrative Assistant who acted on a term assignment for four months as an Officer and one senior Officer on assignment from another department of the Board. The Executive Support Advisor oversees this team. In addition, the Board hired a contractor to assist part-time in the processing and coordinating of ATIP requests in January of 2012. Taking into account the contractor and the Executive Support Advisor who both work part-time on Access to Information, there are currently 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:

- Promotes awareness of the *Access to Information Act* within the organization
- Processes and manages access to information requests and complaints
- Manages the electronic tracking system
- Responds to access-related matters in the Management Accountability Framework
- Processes consultations received from other institutions
- Provides advice and guidance to employees and senior officials on access related matters
- Prepares an Annual Report to Parliament
- Coordinates updates to the Info Source publications
- Develops internal procedures
- Participates 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 re-organized the content of its *Info Source* chapter, including the description of its information holdings by institutional functions, programs and activities. The NEB's chapter is now aligned with its Program Activity Architecture. Under this approach, all classes of records and personal information banks are directly linked to the relevant institutional program and/or activity.

## 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  
1<sup>st</sup> Floor, 444 – 7<sup>th</sup> Avenue SW  
Calgary, AB T2P 0X8

## **Workload**

2011-2012 was a record year for the Board with respect to the number of requests received. This number represents a 160% increase over the previous reporting period, a 622% increase over the number of requests received in 2009-2010 and an 1120% increase over the number of requests received in 2008-2009.

Due to the unprecedented volume of requests, meeting prescribed timelines for responding to requests was a challenge in 2011-2012. The NEB, in the coming year, will be investing in ATIP with additional funding, training and mentoring to retain the current ATIP staff.

Despite those challenges, the NEB responded to more requests than ever in 2011–2012, a 156% increase from the year before. Almost 80% of those requests were released in less than 60 days however 50% of the more complicated requests took over a year to complete. The NEB also reduced its backlog of requests and prevented buildups from increasing. The Board continues to make a strong effort to keep up with the unprecedented number of requests

## **Highlights and Accomplishments for 2011-2012**

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

- The NEB concluded the year with almost 80% per cent of requests completed within statutory deadlines;
- The NEB has remained committed to on-time performance in the face of the continued high volume of requests and consultations received from other institutions;
- Training sessions, focusing exclusively on the *Access to Information Act* and the NEB's procedures for processing requests, were held throughout the year. Three sessions were offered, and a total of 50 employees attended this training; and
- All institution specific classes of records relating to the NEB's information holdings were included in updates to *Info Source*.

### III. Designation Order

National Energy  
Board



Office national  
de l'énergie

Office of the Chair and CEO

Bureau du président et premier dirigeant

#### 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 15<sup>th</sup> day of October 2002, 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>i</sup> hereby designates the person holding the position of Strategic Leader, Business Integration Group (SLBIG) to exercise the powers and perform the duties and functions of the Chair and CEO as head of a government institution under the Act. If the person holding the position of SLBIG is not available, then, the person holding the position of Secretary is hereby designated 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 April 2011.



Gaétan Caron  
Chair and CEO

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

## IV. Statistical Report



Government of Canada / Gouvernement du Canada

### Statistical Report on the Access to Information Act

Name of institution: National Energy Board

Reporting period: 01-Apr-11 to 31-Mar-12

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

##### 1.1 Requests

	Number of Requests
Received during reporting period	56
Outstanding from previous reporting period	10
<b>Total</b>	<b>66</b>
Closed during reporting period	47
Carried over to next reporting period	19

##### 1.2 Sources of requests

Source	Number of Requests
Media	0
Academia	0
Business (Private Sector)	20
Organization	10
Public	26
<b>Total</b>	<b>56</b>

#### **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	8	2	3	0	0	0	0	13
Disclosed in part	0	3	12	2	1	2	4	24
All exempted	0	1	0	0	0	0	0	1
All excluded	0	0	0	0	0	0	0	0
No records exist	3	2	1	0	0	0	0	6
Request transferred	0	0	0	0	0	0	0	0
Request abandoned	1	1	0	0	0	0	1	3
Treated informally	0	0	0	0	0	0	0	0
<b>Total</b>	<b>12</b>	<b>9</b>	<b>16</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>5</b>	<b>47</b>

## 2.2 Exemptions

Section	Number of requests	Section	Number of requests	Section	Number of requests	Section	Number of requests
13(1)(a)	3	16(2)(a)	2	18(a)	0	20.1	0
13(1)(b)	0	16(2)(b)	0	18(b)	0	20.2	0
13(1)(c)	3	16(2)(c)	9	18(c)	0	20.4	0
13(1)(d)	0	16(3)	0	18(d)	0	21(1)(a)	8
13(1)(e)	0	16.1(1)(a)	0	18.1(1)(a)	0	21(1)(b)	8
14(a)	1	16.1(1)(b)	0	18.1(1)(b)	0	21(1)(c)	2
14(b)	0	16.1(1)(c)	0	18.1(1)(c)	0	21(1)(d)	0
15(1) - I.A.*	1	16.1(1)(d)	0	18.1(1)(d)	0	22	0
15(1) - Def.*	0	16.2(1)	0	19(1)	25	22.1(1)	0
15(1) - S.A.*	0	16.3	0	20(1)(a)	0	23	6
16(1)(a)(i)	1	16.4(1)(a)	0	20(1)(b)	4	24(1)	2
16(1)(a)(ii)	0	16.4(1)(b)	0	20(1)(b.1)	0	26	0
16(1)(a)(iii)	0	16.5	0	20(1)(c)	8		
16(1)(b)	0	17	0	20(1)(d)	0		
16(1)(c)	7						
16(1)(d)	0						

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

## 2.3 Exclusions

Section	Number of requests	Section	Number of requests	Section	Number of requests
68(a)	8	69(1)(a)	0	69(1)(g) re (a)	0
68(b)	0	69(1)(b)	0	69(1)(g) re (b)	0
68(c)	0	69(1)(c)	0	69(1)(g) re (c)	0
68.1	0	69(1)(d)	0	69(1)(g) re (d)	0
68.2(a)	0	69(1)(e)	0	69(1)(g) re (e)	0
68.2(b)	0	69(1)(f)	0	69(1)(g) re (f)	0
				69.1(1)	0

## 2.4 Format of information released

Disposition	Paper	Electronic	Other formats
All disclosed	13	0	0
Disclosed in part	24	0	0
<b>Total</b>	<b>37</b>	<b>0</b>	<b>0</b>

## 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	838	838	13
Disclosed in part	11918	11413	24
All exempted	1	0	1
All excluded	0	0	0
Request abandoned	435	169	3

### 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	
	Requests	Pages disclosed	Requests	Pages disclosed	Requests	Pages disclosed	Requests	Pages disclosed	Requests	Pages disclosed
All disclosed	10	91	3	747	0	0	0	0	0	0
Disclosed in part	13	493	6	1175	4	2068	0	0	1	7677
All exempted	1	0	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0	0	0
Abandoned	2	0	1	169	0	0	0	0	0	0
<b>Total</b>	<b>26</b>	<b>584</b>	<b>10</b>	<b>2091</b>	<b>4</b>	<b>2068</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>7677</b>

### 2.5.3 Other complexities

Disposition	Consultation required	Assessment of fees	Legal advice sought	Other	Total
All disclosed	0	1	4	3	8
Disclosed in part	22	3	23	3	51
All exempted	0	0	0	1	1
All excluded	0	0	0	0	0
Abandoned	1	1	1	1	4
<b>Total</b>	<b>23</b>	<b>5</b>	<b>28</b>	<b>8</b>	<b>64</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
8	8	0	0	0

### 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	0	0	0
16 to 30 days	0	0	0
31 to 60 days	0	0	0
61 to 120 days	0	1	1
121 to 180 days	0	1	1
181 to 365 days	0	2	2
More than 365 days	1	3	4
<b>Total</b>	<b>1</b>	<b>7</b>	<b>8</b>

## 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>	<b>0</b>	<b>0</b>	<b>0</b>

## **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	2	0	2	0
Disclosed in part	4	0	6	18
All exempted	0	0	0	0
All excluded	0	0	0	0
No records exist	1	0	0	0
Request abandoned	1	0	0	0
<b>Total</b>	<b>8</b>	<b>0</b>	<b>8</b>	<b>18</b>

### 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	7	0	8	0
31 to 60 days	0	0	0	18
61 to 120 days	1	0	0	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>	<b>8</b>	<b>0</b>	<b>8</b>	<b>18</b>

**PART 4 – Fees**

Fee Type	Fee Collected		Fee Waived or Refunded	
	# of Requests	Amount	# of Requests	Amount
Application	47	\$235	2	\$10
Search	2	\$1,070	1	\$695
Production	0	\$0	0	\$0
Programming	0	\$0	0	\$0
Preparation	0	\$0	0	\$0
Alternative format	0	\$0	0	\$0
Reproduction	1	\$81	0	\$0
<b>Total</b>	<b>50</b>	<b>\$1,386</b>	<b>3</b>	<b>\$705</b>

**PART 5 – Consultations received from other institutions and organizations****5.1 Consultations received from other government institutions and organizations**

Consultations	Other government institutions	Number of pages to review	Other organizations	Number of pages to review
Received during reporting period	25	534	1	19
Outstanding from the previous reporting period	1	35	0	0
<b>Total</b>	<b>26</b>	<b>569</b>	<b>1</b>	<b>19</b>
Closed during the reporting period	26	569	1	19
Pending at the end of the reporting period	0	0	0	0

**5.2 Recommendations and completion time for consultations received from other government institutions**

Recommendation	Number of days required to complete consultation requests							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	than 365 days	
Disclose entirely	16	0	0	0	0	0	0	16
Disclose in part	4	4	0	0	0	0	0	8
Exempt entirely	0	0	0	0	0	0	0	0
Exclude entirely	0	0	0	0	0	0	0	0
Consult other institution	0	0	0	0	0	0	0	0
Other	1	1	0	0	0	0	0	2
<b>Total</b>	<b>21</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>26</b>



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

Recommendation	Number of days required to complete consultation requests							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	than 365 days	
Disclose entirely	1	0	0	0	0	0	0	1
Disclose in part	0	0	0	0	0	0	0	0
Exempt entirely	0	0	0	0	0	0	0	0
Exclude entirely	0	0	0	0	0	0	0	0
Consult other institution	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0
<b>Total</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>

### PART 6 – Completion time of consultations on Cabinet confidences

Number of days	Number of responses received	Number of responses received past deadline
1 to 15	0	0
16 to 30	0	0
31 to 60	0	0
61 to 120	0	0
121 to 180	0	0
181 to 365	0	0
More than 365	0	0
<b>Total</b>	<b>0</b>	<b>0</b>

### PART 7 – Resources related to the Access to Information Act

#### 7.1 Costs

Expenditures		Amount
Salaries		\$185,333
Overtime		\$12,969
Goods and Services		\$97,665
• Professional services contracts	\$59,926	
• Other	\$37,739	
<b>Total</b>		<b>\$295,967</b>

## 7.2 Human Resources

Resources	Dedicated full-time to ATI activities	Dedicated part-time to ATI activities	Total
Full-time employees	3	2	5
Part-time and casual employees	0	0	0
Regional staff	0	0	0
Consultants and agency personnel	0	1	1
Students	0	0	0
<b>Total</b>	<b>3</b>	<b>3</b>	<b>6</b>

## **V. Interpretation / Explanation**

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

#### Number of Requests

During the reporting period, the Board received 56 requests under the *Access to Information Act*. 10 requests were outstanding from the previous reporting period. Of the 66 requests, 47 were completed and 19 were carried forward to the next year.

#### Sources of Requests

Of the 56 requests received, 26 were from the public and 20 were from Business (Private Sector). The Board received 10 requests from Organizations. The Board did not receive any requests from Academia or the Media.

### **PART 2 - Requests closed during the reporting period**

#### Disposition and completion time

Of the 47 requests closed during the reporting period, the Board disclosed all documents in 13 cases; in 24 cases, documents were disclosed in part; in one case, nothing was disclosed due to exemptions; in six cases, no records existed; no requests were transferred; three were abandoned by the applicant and none were treated informally.

Of those 13 requests in which all documents were disclosed, eight were completed in 1 – 15 days, two were completed in 16 – 30 days and three were completed in 31 – 60 days.

Of the 24 requests disclosed in part, three were completed in 16 – 30 days, 12 were completed in 31 – 60 days, two were completed in 61 – 120 days, one was completed in 121 – 180 days, two were completed in 181 – 365 days and four required more than 365 days to complete.

The request where nothing was disclosed due to exemptions was completed in 16 – 30 days.

Where the Board had no records, three of the six requests were completed in less than 15 days, two were completed in 16 – 30 days and one was completed in 31 – 60 days.

In the three cases where requests were abandoned by the applicant, one was completed in less than 15 days, one was completed in 16 – 30 days and the third was abandoned after more than 365 days.

## Exemptions

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

Information obtained in confidence:

- 13(1)(a) was invoked in three requests
- 13(1)(c) was also invoked in three requests

Federal-provincial affairs:

- 14(a) was invoked in one request

International affairs and defence:

- 15(1) I.A. (International Affairs) was invoked in one request

Information that could facilitate the commission of an offence:

- 16(1)(a)(i) was invoked in one request
- 16(1)(c) was invoked in seven requests
- 16(2)(a) was used in two requests
- 16(2)(c) was invoked in nine requests

Personal information:

- 19(1) was invoked for 25 requests

Third party information:

- 20(1)(b) was used in four requests
- 20(1)(c) was invoked in eight requests

Advice:

- 21(1)(a) was invoked for eight requests
- 21(1)(b) was also invoked in eight requests
- 21(1)(c) was used in two requests

Solicitor-client privilege:

- 23 was invoked for six requests

Statutory prohibitions:

- 24(1) was invoked for two requests

## 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 were eight requests received during the reporting period in which exclusions were applied pursuant to section 68(a) of the Act.

### Format of Information Released

Of the 13 requests that were all disclosed, the requesters received paper copies of the information in all cases.

Of the 24 requests that were disclosed in part, the requesters also received paper copies of the information in all cases.

### Complexity

The number of pages processed means the number of pages that were analyzed to determine whether the information can be disclosed, exempt 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.

### Relevant pages processed and disclosed

In the 13 cases where all documents were disclosed, the NEB processed 838 pages and disclosed 838 pages. In the 24 cases where documents were disclosed in part, The NEB processed 11,918 pages and disclosed 11,413 pages. The NEB exempted all documents in one case. In three requests that were abandoned, 435 pages were processed and 169 pages were disclosed.

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

In the 26 instances where less than 100 pages were processed, the NEB disclosed 584 pages. Where 101-500 pages were processed, the NEB disclosed 2091 pages for those 10 requests. In response to four requests where 501-1000 pages were processed, the NEB disclosed 2068 pages. One request required the processing of more than 5000 pages and, in that case, 7677 pages were disclosed.

### Other complexities

In certain cases, there were factors that increased the complexity of requests. In 23 cases, consultations were required, fees were assessed for the completion of five requests and legal advice was sought on 28 requests completed during the reporting period. Other complexities identified throughout the reporting period included eight requests for information deemed to be of a high profile subject matter.

### 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).

### Reasons for not meeting statutory deadline

During the reporting period, the Board did not close eight requests within the statutory (original or extended) deadline. The main reason for not meeting the deadline in those eight cases was due to workload, meaning that there were a large number of requests to be processed, insufficient resources and other ATIP-related tasks that required completion such as complaints, training, *Info Source* chapter revision and action plans under the Management Accountability Framework. The NEB, in the coming year, will be investing in ATIP with additional funding, training and mentoring to retain current ATIP staff.

### Number of days past deadline

In the single case where the NEB responded past the deadline where no extension was taken, that response was more than 365 days past the deadline.

In the seven cases where the NEB responded past the deadline where an extension was taken, one was completed 121-180 days past the deadline, two were completed 181-365 days past the deadline and three were completed over 365 days past the deadline.

### Requests for translation

No translations were required to respond to 2011-2012 access requests.

## **PART 3 - Extensions**

### Reasons for extensions and disposition of requests

Legal extensions were most frequently invoked to provide time to search through voluminous records. In four cases where all records were disclosed, two extensions were taken under 9(1)(a), and two extensions were taken under 9(1)(c).

Where records were partially disclosed, four extensions were taken under 9(1)(a), six extensions were taken under 9(1)(b) and 18 extensions were taken under 9(1)(c).

In one case where no records existed and again in one case where the request was abandoned, extensions were taken under 9(1)(a).

### Length of extensions

In eight cases where an extension was taken under 9(1)(a), seven requests required an extension of 30 days or less and one request required an extension of 61-120 days.

In eight cases where an extension was taken under 9(1)(b), all eight required an extension of 30 days or less.

In 18 cases where an extension was taken under 9(1)(c), all 18 requests required an extension of 31-60 days.

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

Over the reporting period, the Board collected \$235 in application fees for 47 requests, \$1,070 in search fees for two requests and \$81 in reproduction fees for one request for a total of \$1,386 for 50 requests.

The Board waived or refunded \$10 in application fees for two requests and \$695 in search fees for one request for a total of \$705 for three requests. In some cases, fees were waived as it was deemed to be in the public interest; in others cases the fees were waived to avoid hardship to the requester.

#### **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 V 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.

##### Consultations received from other institutions and organizations

During the reporting period, the Board received 25 consultations from other government institutions resulting in the requirement to review 534 pages and one consultation from other organizations requiring the review of 19 pages.

The NEB had one consultation outstanding from the previous reporting period that required the review of 35 pages.

Of the 26 consultations received from other government institutions requiring the review of a total of 569 pages, all were closed during the reporting period and none were still pending on 1 April 2012.

The one consultation received from other organizations required the review of a total of 19 pages, and was closed during the reporting period. No consultations were outstanding on 1 April 2012.

Consultation volumes are a factor in the NEB's workload, as their processing can require resources at a level similar to that of access requests.

##### Recommendations and completion time for consultations received from other government institutions

In the 16 cases where the NEB recommended that the records be disclosed entirely, the consultation request was completed in 1-15 days for all 16 consultations. In the eight cases where the Board recommended that the records be partially disclosed, four consultation requests were completed in 1-15 days and four were completed in 16-31 days. Where the Board had another recommendation, it responded in less than 15 days in one case and in 16-30 days in the other.

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

In the one case where the NEB recommended that the records be disclosed entirely, the consultation request was completed in 1-15 days.

### **PART 6 – Completion time of consultations on Cabinet confidences**

The Board did not seek any consultations on the application of section 69 of the *Access to Information Act* and therefore did not send any documents to the Cabinet Confidences Section of the Privy Council Office.

### **PART 7 - Resources related to the *Access to Information Act***

#### 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 \$295,967.

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 \$185,333.

The Board did not have adequate funding to provide overtime for all additional hours worked in the ATIP Office. Over the reporting period, \$1999 was paid for 56 hours of overtime and 300 hours were claimed as “banked time” by the ATIP Officers which amounted to a total of \$10,970. The total of overtime and banked time combined was \$12,969.

The Board spent \$97,665 on goods and services related to the administration of the *Access to Information Act*. \$59,926 was spent on professional services contracts and \$37,739 was spent on other goods and services.

#### Human Resources

Over the reporting period, the NEB had three resources dedicated full-time to Access to Information (and Privacy) activities, two full-time employees dedicated part-time to Access to Information (and Privacy) activities (the delegated authority and the executive support advisor) and one consultant dedicated part-time to Access to Information activities.



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

### Training for ATIP Analysts

During the reporting period, ATIP staff attended training on AccessPro software (Privasoft) Case Management and Redaction for both the Administrator and End-User. ATIP staff participated by teleconference in courses offered by the Treasury Board of Canada Secretariat regarding Access to Information and Privacy, Personal Information Banks, Info Source and Parliamentary Reporting Requirements.

During the reporting period, Yvon Gauthier Info-Training provided a 2-day intensive training course to all ATIP staff.

### Training for National Energy Board Staff

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

The Board continues to deliver general training to raise employees' awareness of their responsibilities under the Act and specialized training to respond to client's needs. The ATIP Office provided general training on the provisions of the *Access to Information Act* and the *Privacy Act* and their impact on Board programs and initiatives.

ATIP staff also participated in orientation sessions where information was provided to new Board employees regarding obligations under both Acts.

During the reporting period, Yvon Gauthier Info-Training provided a 2-day intensive training session for designated Board staff, a half-day session on Privacy in order to assist the Board in developing a strategy to determine the areas in which the Board collects, uses and discloses personal information that may require additional Privacy Impact Assessments to be undertaken or revised Personal Information Banks and/or Classes of Personal Information and a full day workshop on exemptions and the exercise of discretion. Yvon Gauthier Info-Training also provided four half-day mandatory training sessions for other Board staff. To date, 367 of the Board's roughly 400 employees have taken the ATIP training. The mandatory training is an ongoing initiative that will be carried on during the 2012-2013 fiscal year and reported upon at a later date.

In addition, the Board's Information and Document Services Team delivered sessions with colleagues in Records Management and Security Management highlighting horizontal linkages between ATIP, Security and Records Management, and our electronic corporate records repository (RDIMS). Employees who attend these sessions develop a complete awareness of their responsibilities and are more able to responsibly handle information at the National Energy Board.

## **VII. New or revised policies and guidelines**

The National Energy Board revised and refined its policy and procedures guide during the reporting period. New procedures developed during the reporting period include step-by-step instructional guides, forms and templates used in the processing of Access to Information requests. The NEB has instituted a process to account for the completeness of searches for *Access to Information Act* requests. Responsible officials are required to prepare a statement of completeness and must attest that a thorough search has been performed, that the recommendations for exemption are provided with a rationale and that they have considered and abided by the principles supporting the duty to assist the requester.

Procedures were streamlined to better assist the offices of primary interest with their retrieval processes to ensure that established timelines are respected.

In April 2012, the NEB brought into service a redesigned version of its case management software. The program contains more comprehensive reporting and document management functions than the outgoing version and will facilitate the completion of expanded Statistical Reports brought into effect by the Treasury Board in April 2011.

With respect to the processing of Informal Access Requests, requests are treated informally by the Board's ATIP office when they are filed outside of the *Access to Information Act* but they are still requesting records. In certain cases, requesters are advised to file a formal request but the Board customarily responds to such requests by providing the information informally, i.e. outside the processes defined by the Act. Over the reporting period, 13 requests were processed informally by the ATIP Office.

In compliance with mandatory proactive disclosure requirements for government organizations, the NEB's website ([www.neb-one.gc.ca](http://www.neb-one.gc.ca)) continued to make available information concerning travel and hospitality expenses, reclassification of positions, contracts over \$10,000, and grant and contribution awards. Effective September 2011, the Board also proactively discloses summaries of completed Access to Information requests in both official languages in accordance with the Treasury Board directive issued in July of 2011. Anyone can send an electronic message to the NEB to request a copy of previously released records. Because the files requested rarely required a second review before they could be released again, this type of request was quickly administered in an average of 2.5 days. This initiative generated interest from various groups of stakeholders, yet the impact on our workload was minimal. We received a total of four requests for previously-released files since posting the information publically in September 2011.

## **VIII. Complaints / Investigations**

Through the 2011-2012 reporting period, the Office of the Information Commissioner notified the NEB of one complaint which was carried forward into the 2012-2013 fiscal year.

## Duty to Assist

We continue to make every effort to fulfill our duty to assist requesters. Here are some examples of how we put this duty into action in 2011–2012:

- When extensions were necessary, we provided interim releases.
- When the wording of applications under the Act could have resulted in limited disclosure, or we were aware of additional records of interest, we notified the requester and gave them the option to modify their applications.
- When consultations were required, we adhered to the shortest timeframes possible in responding.
- Where requested records were publically available and therefore excluded, we provided requesters with a copy of the publically available information.

## Enhancing Support and Sustaining Compliance

The NEB continued to improve the timeliness, efficiency and accuracy of responses to Access to Information requests. All available standard classes of records applicable to the Board's information holdings were included in updates to *Info Source*. There was also enhanced engagement of senior management through weekly meetings and reporting.

The following are other improvements that have been made over the last reporting year as well as ongoing initiatives to improve the overall ATIP function at the NEB:

- The NEB's Intranet ATIP website was revamped and procedures were updated to provide further ATIP Awareness tools to departmental officials.
- The NEB continued to implement a structured and Board-wide ATIP awareness program to ensure that staff and senior officials understand their roles and responsibilities vis-à-vis ATIP.
- The NEB hired a consultant with expertise in ATIP and business processes to assist with the processing of requests and to provide recommendations for additional improvements to the overall ATIP program activity. While improvements have and continue to be made with respect to ATIP business processes within the NEB, improvement with overall ATIP legislative compliance can only come with additional resources being committed to this function.
- The ATIP Office also prepared a business case as part of the NEB's Treasury Board submission in the hope of securing additional funding to ensure that the required permanent resources are in place which would result in:
  - sustainable departmental ATIP capacity to support legislative and TBS policy obligations;
  - improved compliance of ATIP Acts and improved performance;
  - significant reduction of the long-term use of expensive ATIP consultants;
  - stable and reliable source of ATIP expertise resulting in better informed departmental officials and a culture that understands and values the departmental commitment to openness and transparency;
  - effective succession planning by gaining and retaining in-house ATIP expertise;
  - better service to stakeholders and clients; and
  - a more efficient and effective streamlined ATIP process within the NEB.