

National Energy
Board



Office national
de l'énergie

Annual Report
pursuant to the
Access to Information Act

1 April 2012 - 31 March 2013

Canada

National Energy Board

Annual Report
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 2012-2013.

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.

II. Description of institution structure

The Access to Information and Privacy (ATIP) Office

Activities relating to the *Access to Information Act* during the majority of the reporting period were the responsibility of the Strategic Leader of Business Integration, who had been designated by the Chair and CEO of the Board as the Coordinator from 1 April 2012 through 31 January 2013. Effective 1 February 2013, the Chair designated the Secretary 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.

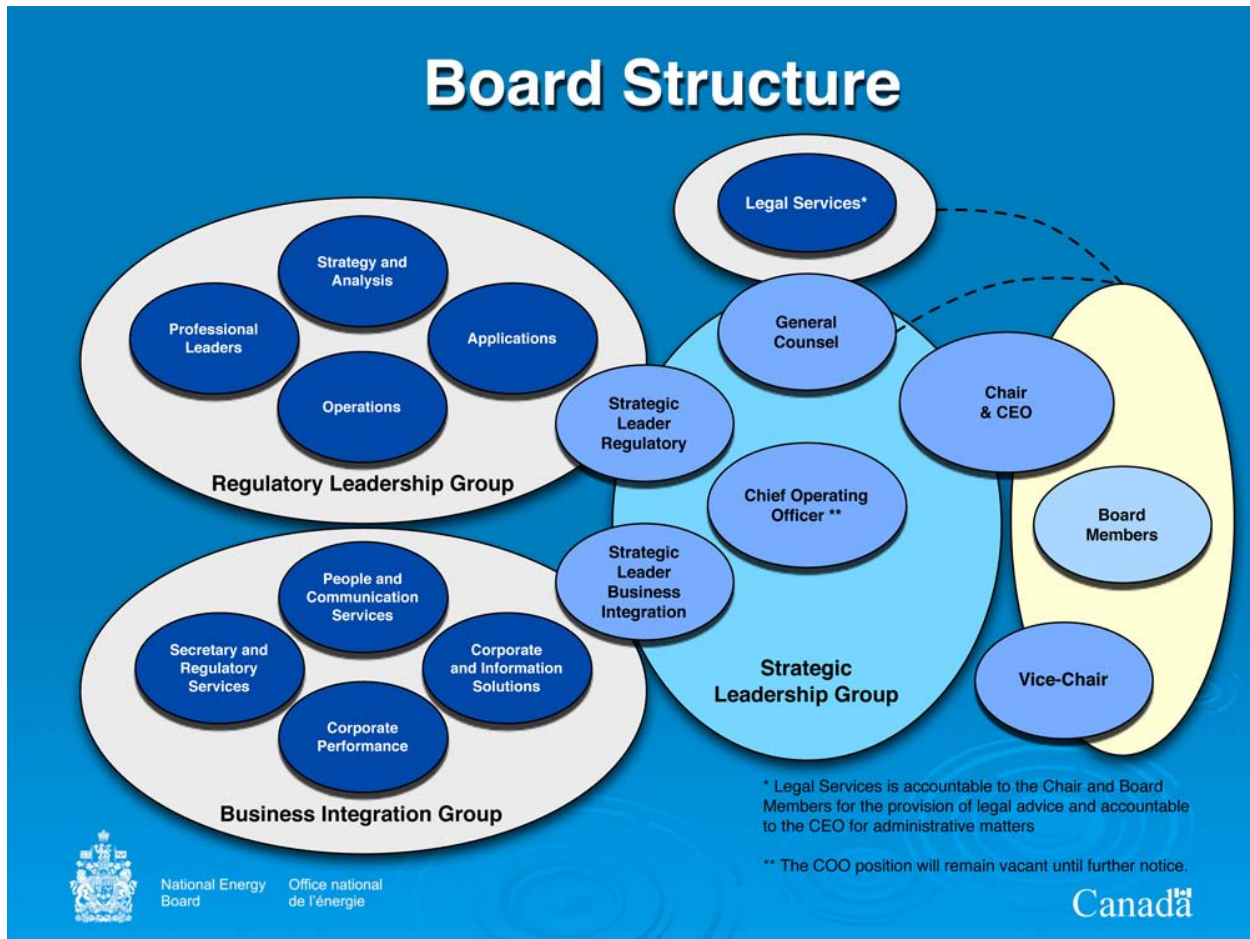
The Chair and CEO has overall responsibility for ensuring that the Board's policies, procedures and practices are compliant with the application and administration of the *Access to Information Act*. The National Energy Board has procedures in place to process all formal and informal access to information 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 contractor to assist part-time in the processing of ATIP requests. 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:

- 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
- Responding to access-related matters in the Management Accountability Framework
- 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
- 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 updated 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 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.

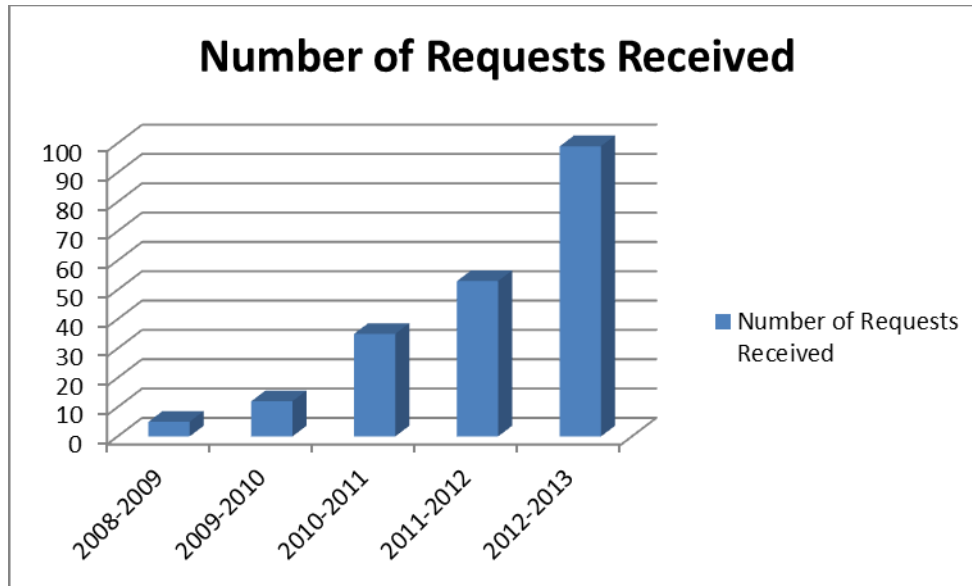
Reading Room

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
1st Floor, 444 – 7th Avenue SW
Calgary, AB T2P 0X8

Workload

2012-2013 was another record year for the Board with respect to the number of requests received. The number of access to information requests received continues to grow steadily as demonstrated by the following chart:



The NEB has invested in ATIP with additional funding, training and mentoring to retain the current ATIP staff. As a direct result of these resources, the NEB was able to respond to 85% of all access to information requests within the legislated timeframes. This is an improvement over last year when the NEB received 47% fewer requests and only 80% of those requests were closed on time. The NEB also eliminated 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 2012-2013

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 85% 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. Nine sessions were offered, and a total of 96 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 15th 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*ⁱ 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 1st day of April 2011.



Gaétan Caron
Chair and CEO

ⁱ S.C. 1980-81-82 c. 111

National Energy
BoardOffice national
de l'énergie

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 1st 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*¹ 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 1st day of February 2013.



Gaetan Caron
Chair and CEO

¹ S.C. 1980-81-82 c. 111

IV. Statistical Report



Statistical Report on the Access to Information Act

Name of institution: National Energy Board

Reporting period: 01-Apr-12 to 31-Mar-13

PART 1 – Requests under the Access to Information Act

1.1 Number of Requests

	Number of Requests
Received during reporting period	99
Outstanding from previous reporting period	19
Total	118
Closed during reporting period	98
Carried over to next reporting period	20

1.2 Sources of requests

Source	Number of Requests
Media	17
Academia	3
Business (Private Sector)	45
Organization	4
Public	30
Total	99

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	2	0	1	0	0	0	0	3
Disclosed in part	1	5	6	28	4	6	1	51
All exempted	0	0	0	1	0	0	0	1
All excluded	3	0	0	0	0	0	0	3
No records exist	12	18	0	3	0	0	0	33
Request transferred	0	0	0	0	0	0	0	0
Request abandoned	3	4	0	0	0	0	0	7
Treated informally	0	0	0	0	0	0	0	0
Total	21	27	7	32	4	6	1	98

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)(a)	5	18(a)	1	20.1	0
13(1)(b)	0	16(2)(b)	0	18(b)	1	20.2	0
13(1)(c)	1	16(2)(c)	4	18(c)	0	20.4	0
13(1)(d)	0	16(3)	0	18(d)	2	21(1)(a)	21
13(1)(e)	0	16.1(1)(a)	0	18.1(1)(a)	0	21(1)(b)	23
14(a)	3	16.1(1)(b)	0	18.1(1)(b)	0	21(1)(c)	7
14(b)	2	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)	47	22.1(1)	1
15(1) - S.A.*	0	16.3	0	20(1)(a)	0	23	13
16(1)(a)(i)	0	16.4(1)(a)	0	20(1)(b)	4	24(1)	4
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)	5		
16(1)(b)	0	17	1	20(1)(d)	2		
16(1)(c)	1						
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)	4	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	3	0	0
Disclosed in part	47	4	0
Total	50	4	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	347	347	3
Disclosed in part	15604	13944	51
All exempted	13	0	1
All excluded	0	0	3
Request abandoned	0	0	7

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	2	4	1	343	0	0	0	0	0	0
Disclosed in part	26	595	16	3233	4	2336	5	7780	0	0
All exempted	1	0	0	0	0	0	0	0	0	0
All excluded	3	0	0	0	0	0	0	0	0	0
Abandoned	7	0	0	0	0	0	0	0	0	0
Total	39	599	17	3576	4	2336	5	7780	0	0

2.5.3 Other complexities

Disposition	Consultation required	Assessment of fees	Legal advice sought	Other	Total
All disclosed	1	0	0	2	3
Disclosed in part	42	1	27	8	78
All exempted	1	0	0	0	1
All excluded	0	0	0	0	0
Abandoned	0	4	0	0	4
Total	44	5	27	10	86

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
14	11	3	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	2	2
16 to 30 days	0	1	1
31 to 60 days	0	5	5
61 to 120 days	0	3	3
121 to 180 days	0	2	2
181 to 365 days	0	0	0
More than 365 days	0	1	1
Total	0	14	14

2.7 Requests for translation

Translation Requests	Accepted	Refused	Total
English to French	0	0	0
French to English	0	0	0
Total	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	0	0	1	0
Disclosed in part	22	0	13	31
All exempted	1	0	1	0
All excluded	0	0	0	0
No records exist	3	0	0	3
Request abandoned	0	0	0	0
Total	26	0	15	34

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	18	0	9	5
31 to 60 days	8	0	3	26
61 to 120 days	0	0	3	3
121 to 180 days	0	0	0	0
181 to 365 days	0	0	0	0
365 days or more	0	0	0	0
Total	26	0	15	34

PART 4 – Fees

Fee Type	Fee Collected		Fee Waived or Refunded	
	Number of requests	Amount	Number of requests	Amount
Application	83	\$415	15	\$75
Search	4	\$1,188	2	\$218
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
Total	87	\$1,603	17	\$293

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	42	2349	0	0
Outstanding from the previous reporting period	0	0	0	0
Total	42	2349	0	0
Closed during the reporting period	41	2340	0	0
Pending at the end of the reporting period	1	9	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	19	4	0	0	0	0	0	23
Disclose in part	12	3	1	1	0	0	0	17
Exempt entirely	1	0	0	0	0	0	0	1
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
Total	32	7	1	1	0	0	0	41

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	0	0	0	0	0	0	0	0
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
Total	0	0	0	0	0	0	0	0

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
Total	0	0

PART 7 – Resources related to the Access to Information Act

7.1 Costs

Expenditures		Amount
Salaries		\$232,557
Overtime		\$0
Goods and Services		\$112,557
• Professional services contracts	\$88,038	
• Other	\$24,519	
Total		\$345,114

7.2 Human Resources

Resources	Dedicated full-time to ATI activities	Dedicated part-time to ATI activities	Total
Full-time employees	3.00	2.00	5.00
Part-time and casual employees	0.00	0.00	0.00
Regional staff	0.00	0.00	0.00
Consultants and agency personnel	0.00	1.00	1.00
Students	0.00	0.00	0.00
Total	3.00	3.00	6.00

V. Interpretation / Explanation

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

Number of Requests

During the reporting period, the Board received 99 requests under the *Access to Information Act* compared to 56 in the previous reporting period. 19 requests were outstanding from the previous reporting period. Of the 118 requests, 98 were completed and 20 were carried forward to the next year.

Sources of Requests

Of the 99 requests received, the largest number of new requests came from the business sector with a total of 45. Thirty requests were from the public and 17 were from media. The Board received 4 requests from Organizations and 3 from Academia.

PART 2 - Requests closed during the reporting period

Disposition and completion time

Of the 98 requests closed during the reporting period, the Board disclosed all documents in three cases; in 51 cases, documents were disclosed in part; in one case, nothing was disclosed due to exemptions; in three cases, nothing was disclosed due to exclusions; in 33 cases, no records existed. No requests were transferred; seven were abandoned by the applicant and none were treated informally.

Of those three requests in which all documents were disclosed, two were completed in 1 – 15 days, and one was completed in 31 – 60 days.

Of the 51 requests disclosed in part, one was completed in 1 – 15 days, five were completed in 16 – 30 days, six were completed in 31 – 60 days, 28 were completed in 61 – 120 days, four were completed in 121 – 180 days, six were completed in 181 – 365 days and one required more than 365 days to complete.

The request where nothing was disclosed due to exemptions was completed in 61 - 120 days.

For the three requests where nothing was disclosed due to exclusions, all were completed in less than 15 days.

Where the Board had no records, 12 of the 33 requests were completed in less than 15 days, 18 were completed in 16 – 30 days and three were completed in 61 – 120 days.

In the seven cases where requests were abandoned by the applicant, three were completed in less than 15 days and four were abandoned in the 16 – 30 day timeframe.

Exemptions

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

Information obtained in confidence:

- 13(1)(c) was also invoked in one request

Federal-provincial affairs:

- 14(a) was invoked in three requests
- 14(b) was used in two requests

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)(c) was invoked in one request
- 16(2)(a) was used in five requests
- 16(2)(c) was invoked in four requests

Safety of individuals:

- 17 was invoked in one request

Economic interests:

- 18(a) was invoked once
- 18(b) was also invoked in one request
- 18(d) was used in two requests

Personal information:

- 19(1) was invoked for 47 requests

Third party information:

- 20(1)(b) was used in four requests
- 20(1)(c) was invoked in five requests
- 20(1)(d) was invoked in two requests

Advice:

- 21(1)(a) was invoked for 21 requests
- 21(1)(b) was invoked in 23 requests
- 21(1)(c) was used in seven requests

Internal Audit:

- 21.1(1) was invoked in one request

Solicitor-client privilege:

- 23 was invoked for 13 requests

Statutory prohibitions:

- 24(1) was invoked for four 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 four 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 three requests that were disclosed in their entirety, the requesters received paper copies of the information in all cases.

Of the 51 requests that were disclosed in part, the requesters received paper copies of the information in 47 cases and four requests were released in electronic format.

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 three cases where all documents were disclosed, the NEB processed 347 pages and disclosed 347 pages. In the 51 cases where documents were disclosed in part, The NEB processed 15,604 pages and disclosed 13,944 pages. The NEB processed 13 pages and exempted all documents in one case. Where information was all excluded and for requests that were abandoned, nothing was processed or disclosed.

Relevant pages processed and disclosed by size of requests

In the 39 instances where less than 100 pages were processed, the NEB disclosed 599 pages. Where 101-500 pages were processed, the NEB disclosed 3576 pages for those 17 requests. In response to four requests where 501-1000 pages were processed, the NEB disclosed 2336 pages. Five requests required the processing of 2001 – 5000 pages and, in those cases, 7780 pages were disclosed.

Other complexities

In certain cases, there were factors that increased the complexity of requests. In 44 cases, consultations were required, fees were assessed for the completion of five requests and legal advice was sought on 27 requests completed during the reporting period. Other complexities identified throughout the reporting period included ten 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

The Board met statutory deadlines for over 85% of the requests closed during the reporting period. There were 14 requests that the Board did not close within the statutory (original or extended) deadline. The main reason for not meeting the deadline in 11 of those 14 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. In three instances, external consultation was the reason for not meeting the statutory deadline.

Number of days past deadline

The Board never exceeded the deadline for any requests where no extension was taken.

In the 14 cases when the NEB responded past the deadline where an extension was taken, two were completed 1 – 15 days past the deadline, one was completed 16 – 30 days past the deadline, five were completed 31 – 60 days past the deadline, three were completed 61 – 120 days past the deadline, two were completed 121-180 days past the deadline, and one was completed over 365 days past the deadline.

Requests for translation

No translations were required to respond to 2012-2013 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 and to conduct third party notifications. In the one case where all records were disclosed, an extension was taken for consultations pursuant to 9(1)(b).

Where records were partially disclosed, 22 extensions were taken under 9(1)(a), 13 extensions were taken under 9(1)(b) and 31 extensions were taken under 9(1)(c).

In one case where all records were exempted, one extension was taken under 9(1)(a) and another under 9(1)(b).

Where no records existed, extensions were taken under 9(1)(a).

Length of extensions

In 26 cases where an extension was taken under 9(1)(a), 18 requests required an extension of 30 days or less and eight requests required an extension of 31 - 60 days.

In 15 cases where an extension was taken under 9(1)(b), nine required an extension of 30 days or less, three required an extension of 31 – 60 days and three required an extension of 61 – 120 days.

In 34 cases where an extension was taken under 9(1)(c), five required an extension of 30 days or less, 26 required an extension of 31 – 60 days and three required an extension of 61 – 120 days.

PART 4 - Fees

Over the reporting period, the Board collected \$415 in application fees for 83 requests and \$1,188 in search fees for four requests for a total of \$1,603 for 87 requests.

The Board waived or refunded \$75 in application fees for 15 requests and \$218 in search fees for two requests for a total of \$293 for 17 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.

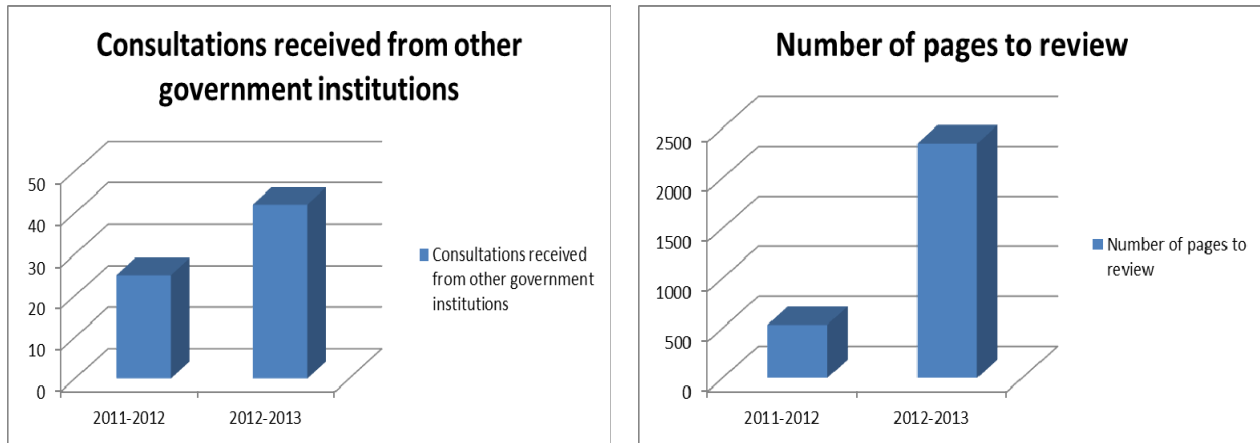
PART 5 - Consultations received from other institutions and organizations

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 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.

Consultations received from other institutions and organizations

During the reporting period, the Board received 42 consultations from other government institutions resulting in the requirement to review 2349 pages. This represents a significant increase over last year when only 25 consultations were received from other government institutions, requiring the review of only 534 pages.

The NEB had no consultations outstanding from the previous reporting period.



Of the 42 consultations received from other government institutions requiring the review of a total of 2349 pages, 41 were closed during the reporting period. One consultation was pending at the end of the reporting period requiring a review of nine pages.

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 23 cases where the NEB recommended that the records be disclosed entirely, the consultation request was completed in 1-15 days for 19 consultations and four consultations required 16 – 30 days to complete. In the 17 cases where the Board recommended that the records be partially disclosed, 12 consultation requests were completed in 1-15 days, three in 16 – 30 days and one in 31 – 60 days. In the one case where the Board recommended that the documents be entirely exempt, the consultation was completed in less than 15 days.

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

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 \$345,114.

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 \$232,557.

The Board spent \$112,557 on goods and services related to the administration of the *Access to Information Act*. \$88,038 was spent on professional services contracts and \$24,519 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 participated in the following events and training sessions:

ARMA International Information Session on Privacy Issues: 11 March 2013

ARMA International is the oldest and largest association for the Records and Information Management profession, with more than 11,000 members worldwide. This year, three members of the ATIP team attended the luncheon featuring Alberta's Privacy Commissioner, Jill Clayton. Ms. Clayton spoke about current issues and trends in privacy, touching on aspects of social media and technology advances. She also provided background information as well as real life examples of cases she has adjudicated in her practice as commissioner.

Yvon Gauthier Info-Training: 4 – 8 February 2013

Yvon Gauthier provides a complete selection of training courses designed to increase knowledge and awareness of Access to Information and Privacy issues and legislation. During the reporting period, four members of the ATIP team attended the following three sessions:

- **Focus on Privacy:** What is “personal information” and what are the restrictions around its collection, use and dissemination?
- **Privacy Management Framework:** A Privacy Management Framework outlines the structure for reducing privacy threats and vulnerabilities. Establishing a strengthened privacy framework requires a situational analysis of existing governance, procedures, training, and technology.
- **Info-Source:** An inventory of the personal information that is collected, used or disclosed by the NEB to ensure that all particular personal information banks have been registered, are up-to-date and reflect the requirements of the law and Treasury Board Secretariat Policies and Directives.

Canadian Access and Privacy Association (CAPA): 3 December 2012

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, two members of the ATIP team attended the Annual Conference in Ottawa featuring:

- Keynote speeches from Suzanne Legault, the Information Commissioner of Canada and from Jennifer Stoddard, the Privacy Commissioner of Canada;
- Information on privacy-enabling innovation and new technologies;
- A summary of important court decisions from the past year on access and privacy issues; and
- Breach notification policies and procedures.

Informal Meeting with the Information and Privacy Policy Division (IPPD) of the Treasury Board Secretariat: 4 December 2013

Two of the ATIP staff members met with a Policy Analyst at the IPPD to discuss Privacy Impact Assessments, Personal Information Banks, Management Accountability Frameworks and other issues related to Privacy.

ATIP staff also participated in informal 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.

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 *Privacy 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 54 new Board employees regarding obligations under both Acts.

During the reporting period, Yvon Gauthier Info-Training provided two full-day intensive training sessions for designated Board staff (18 attendees), four half-day sessions for all NEB staff (60 attendees) and three half-day sessions with a focus on Privacy (18 attendees). NEB staff also participated in a specialized session 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.

Access to Information and Privacy Training is mandatory at the National Energy Board. The training is an ongoing initiative that will be carried on during the 2013-2014 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 NEB did not roll out any policies, procedures, and guidelines related to access to information during 2012-2013 but continued to build on and improve its existing procedures. The majority of the Board's work with respect to policies and guidelines during the reporting period were focused on privacy and the development and implementation of a Privacy Management Framework.

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 Board developed the following new documents related to the implementation of privacy legislation and a privacy culture at the Board:

- Web Site Privacy Policy
- Options for Structural Design of a Privacy Management Framework
- National Energy Board Breeches and Incidents Policy
- National Energy Board Short Privacy Breeches and Incidents Procedure
- National Energy Board Comprehensive Privacy Breeches and Incidents Procedure
- National Energy Board Privacy Impact Assessment Policy
- National Energy Board Procedure for the Conduct of Privacy Impact Assessments
- Privacy Policy and Guidelines for the Collection, Creation, Management and Handling of Personal Information
- The Privacy Concept
- Creating Meaningful and Privacy Compliant Records
- Privacy and the Management of Human Resources
- Privacy and Communications
- Privacy and Contracting

VIII. Informal Treatment of Access Requests

The NEB receives requests for information that can be answered without citing the *Access to Information Act* but keeping within the spirit of the legislation. No five dollar application fee is required.

Requests are treated informally when the information requested is mostly in the public domain or can be disclosed for other reasons. 25 access-related requests were processed through informal means in 2012-2013.

Any copy of a release package from a previously completed request under the Act, as listed on the NEB's Completed Access to Information Requests web page, is captured as an informal access request. In 2012-2013, 45 such requests were processed.

IX. Info Source

The NEB undertook a comprehensive review of its program records, in response to the Management Accountability Framework Report of 2010-2011. Changes were included in the 2012 Info Source publication which was written to accurately reflect the contents of the records created to support the activities of the Department and to be aligned with the 2012-2013 Program Activity Architecture.

X. Complaints / Investigations

Through the 2012-2013 reporting period, the Office of the Information Commissioner notified the NEB of one complaint which was resolved to the satisfaction of the requester. Another complaint that the NEB received in 2011-2012 but which was carried over to last fiscal year was also resolved. In that instance, the complaint was deemed well-founded and was made with respect to fees charged by the Board which have since been waived.

XI. 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 2012–2013:

- 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.

XII. Enhancing Support and Sustaining Compliance

The NEB continues to improve the timeliness, efficiency and accuracy of responses to Access to Information requests. There was also enhanced engagement of senior management through weekly meetings and reporting.

This year, the NEB:

- Eliminated 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;
- Worked collaboratively with consultants who have expertise in ATIP and business processes to assist with the development and implementation of a Privacy Management Framework; and
- Improved its compliance with the legislated timeframes even as the number of requests and consultations received nearly doubled compared to last year's numbers.