

National Energy
Board



Office national
de l'énergie

Annual Report **Pursuant to the** *Privacy Act*

1 April 2015 - 31 March 2016

Canada

National Energy Board

Annual Report
Pursuant to the
Privacy Act

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TABLE OF CONTENTS

1.	Introduction.....	1
	Privacy Act.....	1
	About the National Energy Board.....	1
2.	Description of institutional structure	2
	The Access to Information and Privacy (ATIP) Office	2
	<i>Info Source</i>	3
	Reading Room	3
3.	Designation Order	4
4.	Statistical Report and Interpretation	5
b)	Interpretation / Explanation	13
	PART 1 - Requests Under the <i>Privacy Act</i>	13
	PART 2 - Requests Closed During the Reporting Period.....	13
	PART 3 - Disclosures Under Subsections 8(2) and 8(5)	13
	PART 4 - Requests for Correction of Personal Information and Notations	13
	PART 5 - Extensions	13
	PART 6 - Consultations Received From Other Institutions and Organizations	13
	PART 7 - Completion Time of Consultations on Cabinet Confidences.....	13
	PART 8 - Complaints and Investigations Notices Received	13
	PART 9 - Privacy Impact Assessments (PIAs).....	14
	PART 10 - Resources related to the <i>Privacy Act</i>	14
5.	Description of Education and Training Activities	14
6.	New or Revised Policies and Guidelines	15
7.	Privacy Complaints and Audits.....	16
8.	Enhancing Support and Sustaining Compliance.....	16
9.	Material Breaches	16
10.	Privacy Impact Assessment (PIAs).....	16
11.	Disclosures Pursuant to Paragraph 8(2)(m) of the <i>Privacy Act</i>	17

1. Introduction

Privacy Act

The *Privacy Act* (the Act) gives individuals the right of access to information about themselves held by the federal government, with certain specific and limited exceptions. The Act protects an individual's privacy by setting out provisions related to the collection, retention, use and disclosure of personal information.

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 privacy 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

2. Description of institutional structure

The Access to Information and Privacy (ATIP) Office

Activities relating to the *Privacy 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 *Privacy Act*. The National Energy Board has procedures in place to process privacy 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 during the last quarter of the fiscal year to assist on part-time basis with the processing of ATIP requests. Taking into account the casual employee, the delegated authority and the Executive Support Advisor who worked part-time on Access to Information, Privacy, and Parliamentary Enquiries, there are approximately 4.0 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 a *Privacy 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 *Privacy Act*. The office also provides the following services to the organization:

- Advising program managers of the requirements of the *Privacy Act* for the collection, retention, use, and disclosure of personal information;
- Promoting staff awareness and providing training on the *Privacy Act*;
- Responding to privacy requests;
- Managing the electronic tracking system;
- Preparing an Annual Report to Parliament;
- Ensuring that the Board's personal information holdings are published in Info Source;
- Coordinating and overseeing the Privacy Impact Assessment process for the NEB;
- Developing corporate privacy policies and practices to protect and guide access to personal information;

- Participating in forums for the ATIP community, such as the Treasury Board Secretariat ATIP Community meetings and working groups; and
- Monitoring trends in national and international privacy issues to provide informed advice to clients.

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
2nd Floor, 517 - 10th Avenue SW
Calgary, AB T2R 0A8

3. Designation Order

National Energy
Board




Office national
de l'énergie

Privacy Act Designation Replacement Order

The Chair and CEO of the National Energy Board (the Board), pursuant to Section 73 of the *Privacy Act* (the Act) hereby replaces the *Privacy Act Designation 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 *Privacy 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.



Gaétan Caron
Chair and CEO

¹ 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 *Privacy Act*

Name of institution: National Energy Board of Canada

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

Part 1: Requests Under the *Privacy Act*

	Number of Requests
Received during reporting period	6
Outstanding from previous reporting period	0
Total	6
Closed during reporting period	5
Carried over to next reporting period	1

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	1	0	0	0	0	0	0	1
Disclosed in part	1	1	0	0	0	1	0	3
All exempted	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0
No records exist	0	0	1	0	0	0	0	1
Request abandoned	0	0	0	0	0	0	0	0
Neither confirmed nor denied	0	0	0	0	0	0	0	0
Total	2	1	1	0	0	1	0	5

2.2 Exemptions

Section	Number of Requests	Section	Number of Requests	Section	Number of Requests
18(2)	0	22(1)(a)(i)	0	23(a)	0
19(1)(a)	0	22(1)(a)(ii)	0	23(b)	0
19(1)(b)	0	22(1)(a)(iii)	0	24(a)	0
19(1)(c)	0	22(1)(b)	0	24(b)	0
19(1)(d)	0	22(1)(c)	0	25	0
19(1)(e)	0	22(2)	0	26	2
19(1)(f)	0	22.1	0	27	0
20	0	22.2	0	28	0
21	0	22.3	0		

2.3 Exclusions

Section	Number of Requests	Section	Number of Requests	Section	Number of Requests
69(1)(a)	0	70(1)	0	70(1)(d)	0
69(1)(b)	0	70(1)(a)	0	70(1)(e)	0
69.1	0	70(1)(b)	0	70(1)(f)	0
		70(1)(c)	0	70.1	0

2.4 Format of information released

Disposition	Paper	Electronic	Other formats
All disclosed	1	0	0
Disclosed in part	2	1	0
Total	3	1	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	43	43	1
Disclosed in part	2720	793	3
All exempted	0	0	0
All excluded	0	0	0
Request abandoned	0	0	0
Neither confirmed nor denied	0	0	0
Total	2763	836	4

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	1	43	0	0	0	0	0	0	0	0
Disclosed in part	1	14	1	122	0	0	1	657	0	0
All exempted	0	0	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0	0	0
Request abandoned	0	0	0	0	0	0	0	0	0	0
Neither confirmed nor denied	0	0	0	0	0	0	0	0	0	0
Total	2	57	1	122	0	0	1	657	0	0

2.5.3 Other complexities

Disposition	Consultation Required	Legal Advice Sought	Interwoven Information	Other	Total
All disclosed	0	0	0	0	0
Disclosed in part	0	1	0	0	1
All exempted	0	0	0	0	0
All excluded	0	0	0	0	0
Request abandoned	0	0	0	0	0
Neither confirmed nor denied	0	0	0	0	0
Total	0	1	0	0	1

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
1	1	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	0	0
121 to 180 days	0	1	1
181 to 365 days	0	0	0
More than 365 days	0	0	0
Total	0	1	1

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: Disclosures Under Subsections 8(2) and 8(5)

Paragraph 8(2)(e)	Paragraph 8(2)(m)	Subsection 8(5)	Total
0	0	0	0

Part 4: Requests for Correction of Personal Information and Notations

Disposition for Correction Requests Received	Number
Notations attached	0
Requests for correction accepted	0
Total	0

Part 5: Extensions

5.1 Reasons for extensions and disposition of requests

Disposition of Requests Where an Extension Was Taken	15(a)(i) Interference With Operations	15(a)(ii) Consultation		15(b) Translation or Conversion
		Section 70	Other	
All disclosed	0	0	0	0
Disclosed in part	1	0	0	0
All exempted	0	0	0	0
All excluded	0	0	0	0
No records exist	1	0	0	0
Request abandoned	0	0	0	0
Total	2	0	0	0

5.2 Length of extensions

Length of Extensions	15(a)(i) Interference with operations	15(a)(ii) Consultation		15(b) Translation purposes
		Section 70	Other	
1 to 15 days	0	0	0	0
16 to 30 days	2	0	0	0
Total	2	0	0	0

Part 6: Consultations Received From Other Institutions and Organizations

6.1 Consultations received from other Government of Canada institutions and other organizations

Consultations	Other Government of Canada Institutions	Number of Pages to Review	Other Organizations	Number of Pages to Review
Received during the reporting period	0	0	0	0
Outstanding from the previous reporting period	0	0	0	0
Total	0	0	0	0
Closed during the reporting period	0	0	0	0
Pending at the end of the reporting period	0	0	0	0

Part 7: Completion Time of Consultations on Cabinet Confidences

7.1 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	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
Total	0	0	0	0	0	0	0	0	0	0

7.2 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
Total	0	0	0	0	0	0	0	0	0	0

Part 8: Complaints and Investigations Notices Received

Section 31	Section 33	Section 35	Court action	Total
0	0	0	0	0

Part 9: Privacy Impact Assessments (PIAs)

Number of PIA(s) completed	0
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Part 10: Resources Related to the *Privacy Act*

10.1 Costs

Expenditures		Amount
Salaries		\$13,801
Overtime		\$0
Goods and Services		\$0
• Professional services contracts		
• Other		
Total		\$13,801

10.2 Human Resources

Resources	Person Years Dedicated to Privacy Activities
Full-time employees	0.14
Part-time and casual employees	0.00
Regional staff	0.00
Consultants and agency personnel	0.00
Students	0.00
Total	0.14

b) Interpretation / Explanation**PART 1 - Requests Under the *Privacy Act***

During the reporting period, the Board received 6 requests pursuant to the *Privacy Act*. Since no Privacy requests were received in 2014-15, there were no outstanding requests carried over from the previous reporting period.

PART 2 - Requests Closed During the Reporting Period

The Board received 6 requests during the reporting period. While 5 were released within the statutory deadline, 1 was not closed due to the high workload volume that the ATIP team was managing at that time.

PART 3 - Disclosures Under Subsections 8(2) and 8(5)

The Board did not disclose any information under subsections 8(2) or 8(5).

PART 4 - Requests for Correction of Personal Information and Notations

There were no requests for the correction or the notation of personal information during the reporting period.

PART 5 - Extensions

The Board requested 2 extensions which resulted in one of the files being released in part. Since no records existed for the second file, no records were released.

PART 6 - Consultations Received From Other Institutions and Organizations

The Board did not receive any consultations from other government institutions and organizations.

PART 7 - Completion Time of Consultations on Cabinet Confidences

The Board did not undertake any consultations on the application of section 70 of the *Privacy Act* that were sent to the Cabinet Confidences Section of the Privy Council Office.

PART 8 - Complaints and Investigations Notices Received

No privacy complaints were received and no audits or investigations were concluded during the reporting period.

PART 9 - Privacy Impact Assessments (PIAs)

There were no PIAs completed during the reporting period.

PART 10 - Resources related to the *Privacy Act*

Costs

Costs are only to include those related to the administration of the *Privacy Act* incurred by the ATIP Office that has authority to respond to formal privacy requests or requests for correction of personal information. 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 *Privacy Act* over the reporting period was \$13,801.

The total amount paid for salaries of employees working in the ATIP Office on activities related to the administration of the *Privacy Act* was \$13,801. This represents an 80% increase in salary costs since the 2014-15 reporting period.

The Board incurred no costs on goods and services related to the administration of the *Privacy Act*, neither on professional services contracts nor on other goods and services.

Human Resources

Over the reporting period, the NEB's four full-time employees (three Officers and the Executive Support Advisor) dedicated the equivalent of 0.14 person years to Privacy activities. This represents a change from the 2014-15 fiscal year when no Privacy requests were processed. Even though the Board processed 6 Privacy Requests throughout the year, the bulk of the Board's ATIP Office resources continue to be dedicated primarily to activities related to Access to Information or Parliamentary Inquiries. The resources associated with administering the *Access to Information Act* were reported on the statistical report for Access to Information and not duplicated on the statistical report for Privacy, in accordance with direction from the Treasury Board Secretariat.

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 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 9th and attended by 7 employees. The one-day course, "ATIP for Designated Staff only", was attended by 21 employees on March 10, 2016. A special session, entitled "ATIP Orientation for Board Members", was held on March 9th and was attended by the Chair and CEO 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 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

The NEB did not roll out any additional policies, procedures, or guidelines directly related to privacy during 2015-16 fiscal, focusing rather on the effectiveness of our ATIP processes. The NEB complies with the *Policy on Privacy Protection*, the *Directive on Privacy Practices*, the *Guidelines on Privacy Breaches*, and all other related Treasury Board Secretariat policies, guidelines, and procedures.

In the spirit of continuous improvement, the National Energy Board reviews and refines its processes for responding to *Privacy Act* requests as required. Responsible officials assessed as an office of primary interest are required to prepare written confirmation that all relevant

materials have been submitted attesting that a thorough search has been performed, that there is a rationale for any recommended exemptions as supported by the Act, and that they have considered and abide by the principles supporting the duty to assist the requester. Procedures are streamlined to better assist the offices of primary interest with their retrieval processes to ensure that established timelines are respected.

7. Privacy Complaints and Audits

There were no complaints received and no audits or investigations conducted during the reporting period.

8. Enhancing Support and Sustaining Compliance

Senior management at the National Energy Board supports the Privacy Management Framework as it enables a more effective management of privacy within the NEB and facilitates compliance with Treasury Board Secretariat Policy and Directives obligations.

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 management level staff, 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. Although no requests to correct personal information were received during this reporting period, they would be monitored by this same system.

This year, 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 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.

9. Material Breaches

There were no material privacy breaches that occurred during the reporting period.

10. Privacy Impact Assessment (PIAs)

There were no PIAs completed during the reporting period.

- 11. Disclosures Pursuant to Paragraph 8(2)(m) of the *Privacy Act***
There were no disclosures made under paragraph 8(2)(m) of the *Privacy Act*.