



Administration of the *Access to Information Act*

Annual Report to Parliament 2012-2013

Administration of the Access to Information Act - Annual Report to Parliament
2012-2013.

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Table of Contents

Table of Contents.....	4
Introduction	6
About the Canadian Environmental Assessment Agency	6
Delegation of Authority	7
About Access to Information and Privacy (ATIP)	7
Statistical Report – Interpretation and Analysis.....	7
Access to Information Act Requests Received.....	8
Extensions	9
Canadian Environmental Assessment Registry Requests.....	9
Complaints / Investigations / Appeals to the Court	9
Policies, Guidelines and Procedures	10
Training and Awareness	10
Training and reference material remains available to all staff on the Agency’s Intranet site. Appendix A: Designation Order.....	10
Appendix A: Designation Order	11
Appendix B: Annual Report on the <i>Access to Information Act</i>	14

Introduction

The *Access to Information Act* (the Act) gives Canadian citizens as well as people and corporations present in Canada the right to have access to federal government records that are not of a personal nature or subject to certain limited and specific exceptions. The Act complements, but does not replace other procedures for obtaining government information. It is not intended to limit in any way the access to government information that is normally available to the public upon request.

Section 72 of the Act requires that the head of every government institution submit an annual report to Parliament on the administration of the Act during the fiscal year. The Canadian Environmental Assessment Agency (the Agency) is pleased to table in Parliament its 2012-2013 annual report on the administration of the *Access to Information Act*.

About the Canadian Environmental Assessment Agency

Led by the President, who reports directly to the Minister of the Environment, the Agency delivers its mandate within the framework of the following instruments:

- the *Canadian Environmental Assessment Act, 2012* and its accompanying regulations;
- the *Canada-Wide Accord on Environmental Harmonization*, including the *Sub-Agreement on Environmental Assessment*, and bilateral agreements with provincial governments that establish arrangements for cooperative environmental assessments; and
- international agreements containing environmental assessment provisions to which Canada is a party, principally the United Nations Economic Commission for Europe's *Convention on Environmental Impact Assessment in a Transboundary Context*.

Consistent with the *Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals*, the Agency also supports the Minister of the Environment in promoting the application of environmental assessment processes in strategic-level decision making by providing training and guidance to federal authorities.

The Agency is responsible for conducting the federal environmental assessment process for most major resource projects and for integrating the Government of Canada's Aboriginal engagement and consultation activities into the environmental assessment process for these projects as mandated under the *Canadian Environmental Assessment Act, 2012* and the *Cabinet Directive on Improving the Performance of the Regulatory System for Major Resource Projects* and its Memorandum of Understanding.

The President of the Agency has been designated by an Order in Council as the federal administrator of the environmental and social protection regimes set out in Chapters 22 and 23 of the 1975 *James Bay and Northern Quebec Agreement*.

Delegation of Authority

For the purposes of the Act, the Agency's "head of the institution" as defined in section 3 of the Act is the President of the Agency.

The responsibilities associated with the administration of the Act have been delegated to the Senior Executive Officers reporting directly to the president and the ATIP Coordinator as deemed appropriate by the President for the effective administration of the program. The decision-making responsibility for the application of the various provisions of the Act has been formally established and is outlined in the departmental Delegation of Authority Instrument which can be found under Appendix A.

About Access to Information and Privacy (ATIP)

The provision of ATIP services is the responsibility of the Information Services Division, which reports to the Director General of Corporate Services.

The Information Services Division is further sub-divided into an Information Technology Unit and an Information Management (IM) Unit. The ATIP functions fall within the mandate of the IM Unit. More specifically, the ATIP functions are the responsibility of the ATIP and IM Coordinator and the ATIP and IM Officer. In the past, the Agency has also hired a part-time consultant to assist when high volumes of information were requested.

The IM Team administers the Act by:

- creating access request files and tracking requests using Access Pro Case Management software;
- assessing fees and costs;
- sending statutory notices to applicants, to third parties, and to the Information and Privacy Commissioners;
- compiling statistics;
- initiating consultations;
- providing advice on interpretation/application of the legislation;
- providing training to Agency officials;
- negotiating the resolution of formal complaints;
- advising applicants, third parties and complainants of their rights and obligations under the legislation; and
- preparing the Agency's annual report on the administration of the Act.

Statistical Report – Interpretation and Analysis

Appendix B provides a summarized statistical report on requests processed by the Agency from April 1, 2012, to March 31, 2013. The following sections provide explanations and interpretations of this statistical information by analyzing, among others, the workload trends, the disposition of requests, and the extensions applied.

Access to Information Act Requests Received

The Agency received 35 requests under the Act during the 2012-2013 fiscal year. Thirteen requests were carried forward from the previous fiscal year, for a total of 48 requests; 38 of these were completed during this reporting year. This represents a 27 per cent increase from the number of requests completed during the previous year and an averaged 43 increase over the past two years. The remaining 10 requests will be carried over to next year's report.

As shown below, the majority of the new requests received during the last fiscal year were made by the public.

Source of requests	Number	Percentage
Media	6	17
Academia	0	0
Business	6	17
Organization	7	20
Public	16	46
Total	35	100

Completed requests were processed as follows:

All disclosed	7
Disclosed in part	7
Nothing disclosed (excluded)	2
Nothing disclosed (exempt)	0
Unable to process *	12
Abandoned **	8
Transferred	0
Treated informally	2
Total	38

* The 12 requests referred to in the "Unable to process" category are cases for which no records existed.

** The cases were abandoned when the requester did not pursue their request.

The requests received during the reporting period dealt with a range of topics including the following:

- Administration of the Participant Funding Program
- Environmental Assessments (Comprehensive Studies, Panel Reviews and Screenings)
- Changes brought about by the Canadian Environmental Assessment Act, 2012.
- Procurement matters

During the 2012-2013 fiscal year, 30 (79%) of the completed requests were processed within the initial 30-day or allotted extension period. The Agency required an extension to consult other government departments and third parties to complete 6 of the requests received during this fiscal year. The number of pages processed for the requests

completed in 2012-2013 increased by 26 per cent compared to the previous year (4,958 pages instead of 194 pages). In addition, over 68,000 pages were partially processed under requests that are being carried over into the next fiscal year.

In addition, during 2012-2013, 108 Access to Information consultation requests were received from other government institutions. Hundred twelve consultation requests were completed within the 2012-2013 fiscal year; this number includes the consultation requests that had been carried over from the previous reporting period. These requests were completed within less than 35 days in over 97 per cent of cases. About 8,000 pages of records were processed in total.

Extensions

Section 9 of the Act allows institutions to extend the legal deadline for processing a request if a search for responsive records cannot be completed within 30 days of receipt of the request, or if the institution must consult with other institutions or third parties.

The Agency invoked a total of 8 extensions during the last reporting period. Two extensions were required to search for relevant records; one was required to carry out consultations with other federal institutions; and five were required to consult with third parties.

Canadian Environmental Assessment Registry Requests

As required under the *Canadian Environmental Assessment Act*, the Agency facilitates public access to information and records related to environmental assessments (EA) through the Canadian Environmental Assessment Registry (the Registry). Formal processes are in place to provide the public access to EA records. Agency staff routinely consult with the ATIP Office for guidance on assessing the sensitivity of information contained in EA records to identify any information that should make exception to the rule of access under the *Canadian Environmental Assessment Act*. In addition, the ATIP Office frequently refers requesters to the program responsible for processing requests for access to the Registry records in accordance with the Canadian Environmental Assessment Act.

Complaints / Investigations / Appeals to the Court

There were three complaints filed with the Office of the Information Commissioner of Canada during the reporting period. Two complaints concerned time extensions and delays in processing requests and the other concerned a “no records” response. The latter was resolved once it was communicated to the requester that the Agency did not conduct the Environmental Assessment (EA) of a particular project and that EA records could be obtained via the responsible authority for the EA project in question, i.e., another government department. No appeals were filed with the Federal Court of Appeal.

Policies, Guidelines and Procedures

No new policies, guidelines or procedures were implemented during the reporting period.

Training and Awareness

Agency employees are provided with training and guidance to assist them in fulfilling their duties under the Act. The ATIP Coordinator provides advice and support on an as-needed basis. Mandatory training was delivered during 2012-2013 to about half of Agency employees.

Training and reference material remains available to employees on the Agency's Intranet site.

Appendix A: Designation Order



Canadian Environmental
Assessment Agency

Agence canadienne
d'évaluation environnementale

160 Elgin St., 22nd floor
Ottawa ON K1A 0H3

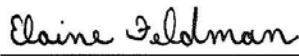
160, rue Elgin, 22^e étage
Ottawa ON K1A 0H3

DESIGNATION ORDER (*Access to Information Act*)

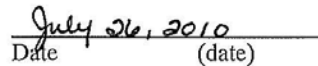
As head of the Canadian Environmental Assessment Agency for purposes of the *Access to Information Act*, I hereby designate, under section 73 of that Act, the officers and employees of the Canadian Environmental Assessment Agency, who hold the positions set out in the attached Annex, to exercise or perform all of the powers, duties or functions that are conferred upon me by the provisions of the *Access to Information Act* specified in the aforementioned Annex.

ARRÊTÉ DE DÉLÉGATION (*Loi sur l'accès à l'information*)

En tant que responsable de l'Agence canadienne d'évaluation environnementale aux fins de la *Loi sur l'accès à l'information*, je délègue, en vertu de l'article 73 de cette Loi, à des cadres et employés de l'Agence canadienne d'évaluation environnementale qui détiennent les postes présentés à l'annexe ci-jointe, mes attributions conférées par les dispositions de la *Loi sur l'accès à l'information* spécifiées dans cette annexe



Elaine Feldman,
President/Présidente
Canadian Environmental Assessment
Agency/Agence canadienne d'évaluation
environnementale


Date (date)



Annex to Designation Order (Access to Information Act) Dated – July 2010
Annexe à l'Arrêté de délégation (Loi sur l'accès à l'information) datée le juillet 2010

The Senior Executive Officers reporting directly to the President and the Access to Information and Privacy Coordinator of the Canadian Environmental Assessment Agency are designated to exercise or perform all powers, duties or functions of the head of the Canadian Environmental Assessment Agency under the following provisions of the *Access to Information Act*:

Toutes attributions du responsable de l'Agence canadienne d'évaluation environnementale conférées par les dispositions suivantes de la *Loi sur l'accès à l'information* sont déléguées aux Agents principaux exécutifs qui se rapportent au président et au Coordonnateur de l'accès à l'information et protection des renseignements personnels de l'Agence canadienne d'évaluation environnementale :

7(a)	Respond to request for access, give access or give notice	Répondre à une demande de communication; donner accès ou aviser par écrit
8(1)	Transfer to institution which has a greater interest	Transmettre la demande à une autre institution
9	Extend time limit	Proroger le délai
11	Assess fees	Frais
12(2)(b)	Language of access	Version de la communication
12(3)	Access in an alternative format	Communication sur un support de substitution
13(1)	Apply exemption - Information obtained in confidence from other governments	Exception - Renseignements obtenus à titre confidentiel d'autres gouvernements
14	Apply exemption - Federal-provincial affairs	Exception - Affaires fédéro-provinciales
15	Apply exemption - International affairs and defense	Exception - Affaires internationales et défense
16	Apply exemption - Law enforcement and investigations	Exception - Enquêtes et respect des lois
16.5	Apply exemption -Public Servants Disclosure Protection Act	Exception – Loi sur la protection des fonctionnaires divulgateurs d'actes répréhensibles
17	Apply exemption - Safety of individuals	Exception - Sécurité des individus
18	Apply exemption - Economic interests of Canada	Exception - Intérêts économiques du Canada
18.1	Apply exemption – Economic interests of certain government institutions	Exception – Intérêts économiques de certaines institutions fédérales
19(1)	Apply exemption - Personal information	Exception - Renseignements personnels
19(2)	Disclose personal information	Donner la communication des renseignements personnels
20	Apply exemption - Third party information	Exception - Renseignements de tiers
21	Apply exemption - Advice	Exception - Avis
22	Apply exemption - Testing procedures	Exception - Examens et vérifications
22.1	Apply exemption - Internal audits	Exception - Vérifications internes
23	Apply exemption - Solicitor/client privilege	Exception - Secret professionnel qui lie un avocat à son client

Annex to Designation Order (Access to Information Act) Dated – July 2010
 Annexe à l'Arrêté de délégation (Loi sur l'accès à l'information) datée le juillet 2010

- 2 -

24	Apply exemption - Statutory prohibitions against disclosure	Exception - Interdictions fondées sur d'autres lois
26	Apply exemption - Information to be published	Exception - En cas de publication
27(1)	Notify third party of intent to disclose information	Avis aux tiers
27(4)	Extend time limit	Proroger le délai
28(1)(b)	Disclose information after third party representations	Communication après présentation des observations des tiers
28(2)	Waive requirement that third party representation be in writing	Autorisation de faire des observations orales
28(4)	Disclose information where no third party review requested	Communication du document
29(1)	Notify all parties of disclosure on recommendation of Information Commissioner	Communication suite à une recommandation du Commissaire à l'information
33	Advise Information Commissioner of third party involvement	Avis au Commissaire à l'information de la participation d'un tiers
35(2)	Opportunity to make representations to Information Commissioner	Possibilité de présenter des observations au Commissaire à l'information
37(4)	Access to be given to complainant	Communication accordée au plaignant
43(1)	Notice to third party (application to Federal Court for review)	Avis au tiers (révision par la Cour fédérale de Canada)
44(2)	Notice to applicant (application to Federal Court by third party)	Avis à la personne qui a fait la demande (demande de révision par la Cour fédérale faite par un tiers)
52(2)	Special rules for hearings	Règles spéciales pour l'audition des causes
71(2)	Exempt information severed from manuals	Prélèvement des renseignements visés par une exception des manuels
77	Responsibilities conferred to the head of the institution by the regulations made under section 77 which are not included above	Les responsabilités attribuées par règlement au responsable de l'institution en vertu de l'article 77 qui ne sont pas incluses ci-dessus

Appendix B: Annual Report on the *Access to Information Act*

Supplemental Reporting Requirements
Access to Information Act

In addition to the reporting requirements addressed in the above "Report on the Access to Information Act" form, institutions are required to report on the following:

Previously released ATI package released informally

Institution	Number of informal releases of previously released ATI packages
Canadian Environmental Assessment Agency	Seven (7)

